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DEPARTMENT OF LABOR AND INDUSTRIES

PROPOSED ERGONOMICS RULE

PUBLIC HEARING

TRANSCRIPT OF COMMENTS

SPOKANE, WASHINGTON

JANUARY 12, 2000 - 1:55 P.M.

HEARING OFFICERS: TRACY SPENCER and MICHAEL WOOD

REPORTED BY: JULIE K. FOLAND, C.S.R.

Notary Public

1 P R O C E E D I N G S

2 MR. SPENCER: Good afternoon, ladies and
3 gentlemen. I now call this hearing to order. This
4 is a public hearing being sponsored by the
5 Department of Labor and Industries. I am Tracy
6 Spencer, Standards Manager, and this is Michael
7 Wood, Senior Program Services and WISHA Services,
8 and we're representing Gary Moore, the Director of
9 the Department of Labor and Industries, as the
10 hearings' officers. For the record, this hearing is
11 being held on January 12 in Spokane, Washington,
12 beginning at 1:55 p.m. as authorized by the
13 Washington Industrial Safety and Health and the
14 Administrative Procedures Act.

15 If you've not already done so, please fill
16 out the sign-in sheet located at the side of the
17 room. This sheet will be used to call forward
18 individuals for testimony and to ensure hearing
19 participants are notified of the hearing results.

20 For those of you who have written comments
21 that you would like to submit, please give them to
22 Josh Swanson, Jennie Hays or Cheryl Moore at the
23 side table. We will accept written comments until
24 5:00 p.m. on February 14th, 2000, for those of you
25 unable to provide comments today.

1 Comments may be mailed to the Department
2 of Labor and Industries' WISHA Services Division at
3 Post Office Box 44620, Olympia, Washington,
4 98504-4620 or e-mailed to ergorule@lni.wa.gov or
5 faxed to area code (360)902-5529. Comments
6 submitted by fax must be ten pages or less.

7 The court reporter for this hearing is
8 Julie Foland of M & M Reporting. Transcripts of the
9 proceedings should be requested and are available
10 from the court reporter. Also, copies of the
11 transcripts will be available on the WISHA home page
12 within about three weeks.

13 Notice of this hearing was published in
14 the Washington State Register on December 1st, 1999,
15 and December 15th, 1999. Hearing notices were also
16 sent to interested parties. In accordance with the
17 RCW, notice was also published 30 or more days prior
18 to this hearing in the following newspapers: The
19 Journal of Commerce, Spokesman-Review, the Olympian,
20 the Bellingham Herald, the Columbian, the Yakima
21 Herald-Republic and the Tacoma News Tribune.

22 This hearing is being held to receive oral
23 and written testimony on the proposed rules. Any
24 comments received today, as well as comments
25 received -- written comments received will be

1 presented to the Director.

2 Prior to starting the formal hearing, an
3 oral summary of the proposed rules was given and a
4 question and answer period occurred. Please refer
5 to the handout provided to you at the door for a
6 copy of the proposed rules.

7 In order to evaluate the potential
8 economic impact of the proposed rule on small
9 business, the Department completed a Small Business
10 Economic Impact Statement in accordance with the
11 Regulatory Fairness Act.

12 For those of you who have given oral
13 testimony at a previous hearing, you will be called
14 upon after all new testimony has been given,
15 provided time permits. We have several people that
16 want to testify so please limit your testimony to
17 ten minutes. If you don't need the ten minutes,
18 then that will be good. If time permits, we will
19 allow for additional testimony to be given after
20 everyone has had the opportunity to speak. Please
21 keep in mind that we have allowed a full month to
22 receive written comments, the cutoff date again
23 being February 14th, 2000.

24 Please remember this is not an adversarial
25 hearing. There will be no cross-examination of the

1 speakers. However, the hearings' officers may ask
2 clarifying questions. In fairness to all parties I
3 ask your cooperation by not applauding or verbally
4 expressing your reaction to testimony being
5 presented. If we observe these rules, everyone will
6 have the opportunity to present their testimony and
7 help the Director to consider all viewpoints in
8 making a final decision.

9 At this time we will take oral testimony.
10 Please identify yourself, spell your name and
11 identify who you represent for the record.

12 MR. MEYERS: My name is Jay D. Meyers.
13 It's spelled J-a-y, middle initial D, last name is
14 M-e-y-e-r-s, representing the Inland Northwest
15 Associated General Contractors, and anything else?

16 MR. SPENCER: That's fine.

17 MR. MEYERS: All right. This afternoon
18 I'm testifying on behalf of the Inland Northwest
19 Associated General Contractors which is a trade
20 association representing 551 members to include
21 general contractors, construction employers and
22 associate members.

23 As previously stated in letters to
24 Mr. Gary Moore, the Inland Northwest AGC is strongly
25 opposed to the Department -- the Washington

1 Department of Labor and Industries issuing an
2 ergonomic standard at this time. A detailed
3 explanation of why we're opposed to this rule would
4 require, in fact, significant and more time than
5 we're allotted right now; thus or therefore, what
6 I'm going to do is simply hit the high points or
7 express our major concerns.

8 The position of AGC is that the
9 Department's issuance of an ergonomic standard at
10 least at this time is premature. Several reasons
11 why we believe that. First of all, the desired
12 outcome or goal really has not been clearly defined.
13 The concept of reduction of workplace hazards is
14 vague at best, and it begs for the question what is
15 an acceptable or unacceptable level of reduction as
16 far as hazards are concerned, and it also -- at this
17 time there is no guarantee that this proposal is in
18 fact going to eliminate or reduce MSDs. All we have
19 right now is more or less a prediction that it's
20 going to happen.

21 Additional reason, over on Page 10 of the
22 publication that the Department published, the
23 Department has stated that it intends to complete or
24 develop plans, policies and programs to assist the
25 employers. Our position on that is these things

1 should've been in place before the rule was in fact
2 released or implementation was eminent.

3 The last is a detailed cost benefit
4 analysis has not been done. We strongly believe
5 that a detailed cost benefit analysis conducted by
6 an independent third party should have been a
7 requirement and should've been done previously to
8 this date.

9 Our points in dispute are -- is the
10 economic summary in the Small Business Economic
11 Impact Statement. We believe that it is flawed.
12 One of the reasons is it is primarily based upon
13 data collected in only two surveys of Washington
14 employers. The survey of Washington employers, we
15 also believe the sample size providing the
16 information was too small. We are of the opinion
17 that your information and the data extrapolation was
18 extreme, and that the excessive quantity of
19 assumptions and estimates were used to establish
20 fact. To substantiate that, for example, the word
21 estimate or variation of the word estimate was used
22 159 times, and the word assume or variation of the
23 word assume was used over 30 times.

24 The recent release of the federal OSHA
25 ergonomic standard also raises several issues and

1 questions. First of all, why are we continuing to
2 proceed with a rule which, very conceivable, this
3 rule may be judged as not being as effective as the
4 federal rule. Granted, at this time we don't know
5 that, but that possibility exists.

6 The other thing is employers in
7 Washington who work in other states such as Idaho
8 and Oregon will be forced to comply with two
9 significantly different standards. There will be
10 associated costs with each standard, and how much
11 will additional costs be to those employers that in
12 fact do work in different states, and finally in
13 regards to OSHA, OSHA has not included construction
14 in its current proposal.

15 The proposal from OSHA is coming -- or the
16 statement made by OSHA is that they are going to
17 include construction, maritime and agriculture in a
18 separate standard. To us, this is a clear
19 indication that federal OSHA's aware of the fact
20 that construction has inherent differences from
21 fixed industry, and we firmly believe these
22 differences should in fact be addressed.

23 Now, in regards to the astute decision,
24 which I believe most people in this room are
25 associated with or at least familiar with, to what

1 extent is an employer going to be responsible for
2 the inadequate and/or incorrect subcontractor
3 application of a very vague set of rules? They will
4 be responsible for it, I'm sure, and this has a
5 potential for extensive amount of frivolous
6 third-party litigation.

7 The rule, like other recently-published
8 rules, also includes a concept of feasibility.
9 Specifically, this rule includes a phrase, "the
10 degree feasible." What does this phrase mean?
11 Nobody knows at this point. If in fact the
12 Department intends to define "degree feasible" on a
13 case by case basis, we find this particular intent
14 is unacceptable.

15 This rule also exceeds the reasonable
16 limits by granting employees the power to select the
17 measures or solutions for hazard reduction. No
18 doubt about the fact that employee input is very
19 valuable in this particular process. However, the
20 selection of a means of solving a problem is clearly
21 a management decision, so, in conclusion, we believe
22 this proposed standard in its current format will
23 create one of the largest and most expensive
24 regulatory programs in the Department's history,
25 and, unfortunately, we can only view it at this

1 particular point in time as an experiment with an
2 unpredictable outcome.

3 We strongly believe and recommend that a
4 statewide pilot program to document the feasibility,
5 to go back and use the term that has been used, to
6 document the feasibility of this rule is in order.
7 As it stands right now we believe this rule is
8 unfair, it's unreasonable, it's unpredictable, and
9 we believe also that it's unnecessary. Thank you.

10 MR. SPENCER: Thank you. Bill Murphy.

11 MR. MURPHY: Bill Murphy. I submitted a
12 written question so I'd like this question
13 considered in conjunction with that written
14 question. My comment is this: That we have stated
15 that when there is a caution zone job, mitigation
16 will be done according to the degree feasible, and
17 I'm greatly concerned that there is no unarbitrary
18 way to determine what is feasible and what is not
19 feasible, and let me give you just a couple examples
20 of that.

21 We know that surgeons sometimes can be in
22 surgery up to ten hours, maybe more, a day, and
23 surgery by its very nature requires bending of the
24 back and bending of the neck more than 45 degrees
25 and probably more than 30 degrees. Now, I don't

1 know of any way to prevent that from happening, but
2 we know right now at this time that that is going to
3 be a, quote, unquote, caution zone job for a surgeon
4 to be in surgery, and so what I would like to know
5 is are you going to enforce this rule in the surgery
6 room to the extent that you will ask surgeons to be
7 replaced in the middle of surgery? Is that -- is
8 that feasible? Is that what you might consider
9 feasible?

10 Secondly, let me give another example is
11 roofing. We know as a matter of fact that your
12 ordinary roofer is kneeling probably eight or more
13 hours a day. The rule states that it's a caution
14 zone job if you kneel for more than two hours a day.
15 Now, you can say that that roofer should have four
16 employees and they alternate in and out in two-hour
17 intervals, but perhaps there's only two employees or
18 perhaps there's only one employee on the job.

19 We know right at this time that there are
20 very few examples of what would be feasible for that
21 roofer or that surgeon to mitigate those problems,
22 and so we know going into this thing that there are
23 these problems. To my knowledge there is no
24 technical alternative to what they do. The job by
25 its essence requires a surgeon to bend over and look

1 at the patient, and the roofer by its nature has to
2 kneel and put on the shingles, so it's really got to
3 be up to each individual L&I inspector to determine
4 what's feasible and what's not feasible, and you're
5 going to run into different vagueries of human
6 discretion because each inspector's going to decide
7 what's different or what's feasible by each of these
8 positions, so I'd like someone to address the
9 vagueries of what is feasible and what is not
10 feasible, and also, as I addressed in my written
11 comments, I want the assurance that the surgery
12 rooms in this state will be policed to the utmost
13 because we have a severe, severe problem with
14 surgeons being exploited by having to bend beyond 30
15 degrees.

16 Next, I'd like to say that there is a
17 question early on about whether or not history could
18 be used in determining whether this is a caution
19 zone job or not. In other words, if a person has
20 a history of work, say, 30 -- the example was 30
21 years in a welding shop with no injuries, and he
22 asked whether that could be taken into account as to
23 whether or not this is a caution zone job, and the
24 answer was succinctly no.

25 The analogy was given that in a case of a

1 fall protection -- in response to that the answer
2 was no, and the reasoning behind the no answer was
3 by analogy that if you have an individual saying,
4 well, I've had 30 years on this roof and no one's
5 fallen off, therefore I don't need fall protection,
6 obviously that's not a correct or that's not a
7 proper response, and so the analogy being that if
8 you can't use the 30 years without injury in the
9 fall protection scheme, then you cannot use the 30
10 years without injury in the MSDs, and I'd like to
11 point out that that's an incorrect analogy.

12 The reason being is that the 30 years with
13 respect to a fall is, by nature, an accident. An
14 accident happens instantaneously without reference
15 to prior history. An accident is an accident. It's
16 unplanned and it happens.

17 Now, contrast that to this scenario where
18 we're talking about repetitive motion. We're
19 talking about MSDs. Repetitive motion by its very
20 name and nature takes into account repetition.
21 Repetition is almost identical to history. In other
22 words, history is important because the history
23 shows that the repetition involved is not dangerous.
24 Therefore, history should be taken into account
25 because we are talking about repetitive things.

1 Repetitive things by their nature involve
2 a history, and so the analogy given that history
3 should not be taken into account because it cannot
4 be taken into account in other situations, i.e., the
5 slip and fall type situation, that's an incorrect
6 analogy, and I believe we have to take into account
7 history. That's all I have to say.

8 MR. SPENCER: Thank you.

9 THE WITNESS: My name's Curt Thompson. I
10 represent the Community Colleges here in Spokane.
11 I'd like to focus specifically on the standard of
12 the use of keyboards as well as lifting and a couple
13 points I want to paint with a broad brush. I'll be
14 brief.

15 I need us to -- in this standard, if it's
16 going to pass, it certainly looks like at this point
17 it's going to, we need to clearly define many of the
18 words that are in here, and the one that I want to
19 focus on is under highly repetitive motion,
20 performing intensive keying, and we need to clearly
21 define what intensive keying is and also define what
22 is keying. If that is excluding a mouse as well as
23 other devices that you can actually move icons with
24 computer usage, we need to actually state that there
25 are exceptions to keying because as technology

1 changes, too, we're going to have newer forms or
2 ways that we actually interact with the computer,
3 and this needs to evolve with the standard as well.

4 The next point is the Appendix B. It
5 needs to actually state whether it's mandatory or
6 not. In Appendix A it states that it's a reference,
7 it should be used for a reference, but Appendix B
8 does not state whether it's mandatory or not, and I
9 think that that should actually state mandatory if
10 that's the approach.

11 If Appendix B is mandatory, I don't think
12 that the lifting portion or the calculation portion
13 of that standard should be used. We should use
14 what's already available which is the NIOSH lifting
15 standard. Even though the NIOSH lifting standard is
16 more complex, I think it hits more of the high
17 points than this particular formula does. There's
18 some things that this formula's missing that I think
19 should be in there.

20 The third point is I really like the
21 implementation schedule because I'm one of the ones
22 that has a two- to four-year implementation period
23 so that's actually positive, but I want to focus --
24 most of the discussion for mine is on the
25 feasibility study. I need to know for my own peace

1 of mind I guess, and if L&I could state this, is
2 Labor and Industries stated in there, I guess it
3 would be page one off the ergonomics rule itself,
4 that there's 340 million dollars per year of WMSDs,
5 but they also give some things that they are
6 excluding like slips, trips, falls, motor vehicle
7 accidents, et cetera, and I'd like to know did the
8 Department of Labor and Industries exclude the
9 slips, trips, falls, motor vehicle accidents from
10 the 340 million trying to calculate out those
11 numbers, but the feasibility study I'm going to
12 agree with Jay, there's a lot that I think is
13 flawed.

14 I cannot provide a general awareness
15 education for \$1.73 per year per employee, and I
16 know it's over a three-year period. Multiply that
17 by three, I mean that's minimum wage, and we can't
18 take people off the line for that price, okay,
19 including benefits, hourly wages, et cetera. The
20 hazardous job training is the same, \$1.24 per year
21 per person. I think that's grossly inadequate, at
22 least in the industry that I'm in. Same with
23 marketing administrative costs and all the way down
24 the line. I would really like to see more of those
25 numbers and how they were extrapolated, and that's

1 what I have. Thank you very much.

2 MR. SPENCER: Thank you. Al Link, Richard
3 Prete and Laura Sheehan.

4 MR. LINK: Good afternoon. I'm Al Link
5 with the Washington State Labor Council, and I'm
6 here representing our over 617 affiliates and over
7 400,000 members in the state of Washington. I
8 applaud the Labor and Industries proposed ergonomics
9 rule. This rule is one of the most significant
10 safety and health rules ever proposed for working
11 people in Washington state. This rule is aimed at
12 prevention. Stop injuries before they happen.

13 We can no longer look to short-term
14 solutions to this long-term problem in the
15 workplace. Every day most workers in our state face
16 a workplace that has failed to address the issue of
17 work-related musculoskeletal disorders. This past
18 year 50,000 State Fund worker comp claims were
19 musculoskeletal-related, costing the State Fund, as
20 you heard, \$340 million. This does not take into
21 consideration the human factor of pain and
22 suffering, lost wages, whole families suffering when
23 a worker is injured.

24 We know for certain there are many more
25 workers who do not file claims for fear of losing

1 their jobs. The seriousness of this situation and
2 its impact on working people cannot be overstated.
3 Thirty-six percent of worker comp claims between
4 1989 and 1996 were musculoskeletal related, and 52
5 percent were compensable claims with more than four
6 days of lost work. This speaks volumes to why this
7 rule is being proposed and needs to be adopted.

8 Musculoskeletal disorders are the most
9 costly occupational injuries in the United States.
10 The National OSHA sees this as a serious problem,
11 and this past month proposed their ergonomics rule
12 which was eight years in the making. WISHA efforts
13 need to be commended. This proposed rule is well
14 thought out and one we can all live with.

15 We sought the input from all of the groups
16 and, from this, developed the best possible rule.
17 The National Academy of Science and NIOSH have done
18 these studies. Their conclusions: One, there is a
19 positive relationship between MSDS and workplace
20 risk factors. Two, ergonomic programs and
21 intervention can reduce the injuries.

22 Business will say it will cost too much
23 money. What's it costing them annually to do
24 nothing? This is the longest phase-in of any of the
25 rules ever adopted by L&I, and small businesses will

1 have six-plus years to comply.

2 The businesses that have developed
3 ergonomic programs can see the benefits and cost
4 savings, reduced claims, higher productivity and
5 worker morale. It's good business. They should
6 have the courage to speak up and support this rule.
7 Businesses throughout the rule-making process have
8 tried to put much of the blame for MSDs back on the
9 worker -- not for what they do at work but for what
10 they do outside of work, their lifestyles and
11 hobbies, such as knitting and sports. This shows
12 disrespect for the workers of the state of
13 Washington. Business needs to be reminded that
14 their wealth is made possible by the goods and
15 services produced by labor.

16 In conclusion, as we evolve as a society
17 we must have ask ourselves these questions: What
18 type of workplace do we see in the future for our
19 children and grandchildren? What steps are we
20 willing to take to make that future possible? Here
21 and now we have the opportunity to take the next
22 steps necessary to insure healthy workplaces. This
23 is going to be a challenge, but anything worthwhile
24 always is. When workers and management come
25 together for a solution to a problem, there is no

1 problem that cannot be solved. Time and history
2 have proven that.

3 In previous testimony I heard the word
4 what is acceptable? For organized labor acceptable
5 is returning home from your work site in the same
6 condition as you got there. In this case an ounce
7 of prevention is worth a hundred pounds of cure, and
8 we will continue to work towards adoption of this
9 rule for all working people. Thank you.

10 MR. SPENCER: Thank you.

11 MR. PRETE: Richard Prete, P-r-e-t-e. I'm
12 a health and safety specialist certified by
13 Evergreen Safety Council. I have a 30-hour OSHA
14 card, and I'm a member of the union safety
15 committee. I have a modest amount of experience
16 with ergonomics.

17 I worked in a large aluminum manufacturing
18 company that said they cared about ergonomics. They
19 had ergo teams all over the plant, and I was a
20 member of one of those teams. We gathered
21 historical information in each department on who was
22 being injured at what machines and what jobs. We
23 tried to decide what was to be done and needed
24 attention to eliminate the hazards. The company
25 even brought in a consultant to do a tour of the

1 departments and reach conclusions as to what were
2 the ergonomic hazards.

3 After we put together a list of what was
4 needed, we were told that we'd have to pick out the
5 most critical item or two on the list to be acted
6 upon. The company was not going to fix the entire
7 list. The company said we would just have to live
8 with some of the items because, quite plainly, they
9 did not want to spend the money to correct them.

10 Most of these items related to production
11 workers. The only help that was available for
12 maintenance workers was the purchase of
13 ergonomically-designed tools and hopes that the next
14 generation of equipment would be better designed.
15 Most of the functions in and around the existing
16 equipment could not be modified. We did ask to have
17 input into the design or ordering of new equipment.
18 The company supplied tools for the craftsmen and
19 production workers and outfitted all the offices and
20 work stations, et cetera, from an internal
21 purchasing department.

22 They had the opportunity to stock
23 ergonomically-designed tools as part of their
24 regular inventory. They also had the opportunity to
25 purchase ergonomically-designed chairs, tables, work

1 stations and controls. These could've been
2 integrated into the plant system slowly as each item
3 needed replacing.

4 As we tried to urge the company to replace
5 the equipment modifying and eliminate the ergonomic
6 hazards, it became clear that upper management did
7 not want to spend any more than the minimum amount
8 needed to satisfy the law. We were constantly faced
9 with statements such as there's no law requiring
10 them to do all this, or when a problem arises, we'll
11 deal with it. The company could only see the dollar
12 cost of the ergonomic program going in.

13 They had hazard reduction programs and
14 supplied education. They had accident prevention
15 and supplied education as well, but there was no
16 willingness to spend any more than the law was
17 required. There was no thought as to what the
18 savings would be when realizing lower claims, better
19 overall health and welfare and long-term increased
20 productivity. There was no response to the requests
21 of the workers who they had trained when they called
22 for help.

23 Eventually the ergo teams were cancelled
24 one by one until there was none left in the plant.
25 The only way anything done regarding ergonomics was

1 in an accident investigation after the fact.

2 To conclude, we need the stronger
3 regulations to be able to insure the companies like
4 the one I worked for not only respond to the letter
5 of the law but are provided with a clear set of firm
6 rules to protect the most important asset of that
7 company, their employees. The new ergonomic
8 regulations will not be a hindrance to any company
9 that is caring of its people or pro-active in the
10 protection of the worker. The companies that see
11 this as a burden are the ones that are purely dollar
12 driven, the bottom-line companies that think it's
13 cheaper to pay medical claims of injured workers
14 down the road than to prevent those injuries from
15 ever occurring. People can do better work and
16 create more profit for a company when they are not
17 in pain. Thank you.

18 MS. SHEEHAN: Hello. I'm Laura Sheehan.
19 I'm the government affairs manager for Telect, and
20 today with me is Dave Ebert, our safety and health
21 administrator. We are a telecommunications
22 manufacturer with over one thousand employees in
23 Liberty Lake. We strongly support ergonomics and
24 already encourage employee participation. However,
25 we do believe that ergonomic mandates cited in the

1 proposed rule will hurt the very people you are
2 trying to help and the employers you are trying to
3 retain in Washington state.

4 Telect dedicates a large portion of our
5 orientation program for new employees discussing
6 safe work methods regarding lifting, repetitive
7 motion and encouraging employee participation in our
8 safety program. Our current safety program includes
9 a full-time safety and health administrator,
10 cross-training and rotation of manufacturing workers
11 and internal hazard reporting program in company
12 policy where the employee can report potential
13 hazards to their supervisor, to the safety
14 administrator or anonymously if confidentiality is
15 desired, and if the report is valid after
16 investigation, it is immediately corrected.

17 We also have a light-duty program if an
18 employee has an injury and a claim pending to insure
19 they remain gainfully employed. We believe that
20 pilot programs within a variety of companies that
21 have caution zone jobs would be a more accurate
22 means to identify the needs of our employees.

23 In the proposed ergonomic rule it is
24 stated that exposure to certain repetitive motions
25 and lifting has been reduced to four hours and in

1 some areas only two hours a day. Not all companies
2 have other jobs for the remaining four hours a day
3 to insure full-time employment, so if the specific
4 job can only be performed for four hours daily, then
5 that eliminates the opportunity for full-time
6 employment, and instead of helping the employee, L&I
7 has now reduced that job service to a part-time job.

8 Also under the proposed rule, the cost to
9 the employer to implement these rules has not been
10 taken into consideration, and a costly program costs
11 jobs. When you make manufacturing overhead too
12 costly, manufacturing is going to go to other areas
13 of the country or out of the country to do business.
14 If our shipping person can only lift six pounds per
15 hand for no more than two hours a day, we will be
16 forced to redesign packaging for shipment, double
17 staff, and the cost of repackaging will be
18 phenomenal to the telecommunications industry.

19 In conclusion, we believe a safe work
20 environment is crucial for our employees. However,
21 if this proposal is adopted, it is going to take
22 jobs away from the very people you are trying to
23 assist. It will create a part-time work force in
24 automation. Our suggestion is to conduct pilot
25 programs with companies like ours, clarify the

1 workers compensation issue in relation to the
2 definition of hazard zone, support employers that
3 act in good faith, and pilot programs will also
4 allow you to establish clear compliance and
5 requirements. Thank you.

6 MR. SPENCER: Thank you. Bill Landkammer,
7 Tom Stuart and Doug Nowell. Tom Stuart? Okay. Go
8 ahead.

9 MR. LANDKAMMER: My name's Bill
10 Landkammer, last name L-a-n-d-k-a-m-m-e-r. I'm a
11 locked-out Kaiser steelworker here to support the
12 proposed ergonomic rule. However, I feel the rule
13 does not go far enough in some areas. The rule does
14 nothing for employees who have already been injured
15 due to work-related musculoskeletal disorders.

16 I suffer from carpal tunnel syndrome which
17 is due to setting carbon at Kaiser-Mead. It is hard
18 for me to find a job anywhere else that involves
19 repetitive work because my carpal tunnel syndrome
20 flares up, and if any of you have ever experienced
21 it, it is quite painful. You can't sleep at night.
22 You have to sleep in certain positions. It's not a
23 good thing to deal with.

24 Many other people suffer from ergonomic
25 injuries such as carpal tunnel syndrome, low back

1 disorders, shoulder disorders and tendinitis. What
2 about these people? They shouldn't be left out.

3 The new OSHA proposed ergonomic standards
4 would require that workers with repetitive stress
5 injuries receive 90 percent of their pay and 100
6 percent of their benefits if their ailments force
7 them to take leave from work. Washington state's
8 rules should be the same. Under the description of
9 caution zone jobs it mentions what the exposure
10 limits to certain types of activities are. However,
11 there are many jobs that have exposures to several
12 of the risks but do not exceed the exposure limit of
13 any single risk alone. With a combination of all
14 the exposures together, the risk of developing a
15 work-related musculoskeletal disorder may be just as
16 great or even greater. This could be a huge
17 loophole for employers. However, I believe that a
18 caution zone job should also include those
19 job-involved tasks that have multiple exposures to
20 various works that are identified under the caution
21 zone jobs but don't exceed the limit as defined by
22 any one limit. This would save numerous workers
23 from needless injuries.

24 Even with the caution zone job
25 restrictions in place, there are still going to be

1 work-related musculoskeletal disorder injuries from
2 jobs that fall into compliance with the proposed
3 rules. The workers who suffer these injuries will
4 have to live with them for the rest of their lives.
5 What about them? I say let's make these people
6 properly compensated. Implement the rules but help
7 the workers of the state of Washington more. Don't
8 let them fall through the loopholes. Let's do the
9 right thing and do it now. The rules should become
10 effective immediately to help the workers now, not
11 three to six years after the rule's adopted as
12 proposed. How many more people do we need injured
13 between now and then?

14 In the end, after all the rules are in
15 place, there still needs to be compensation for the
16 workers who have been injured and will continue to
17 be injured because of poor company practices. For
18 without it, companies will continue to let bad
19 practices continue. Thank you for your time.

20 MR. SPENCER: Thank you.

21 MR. NOWELL: My name is Doug Nowell. I
22 work for Lydig Construction. It's N-o-w-e-l-l.
23 Lydig Construction, Incorporated, fully supports the
24 efforts to help and insure worker health and safety
25 and supports the establishments of an ergonomic

1 standard. However, I do have a few issues that need
2 to be addressed prior to the application of this
3 rule to the construction industry.

4 The word feasible has been used in various
5 forms this morning several times, and it is not
6 defined in the proposed rule. Definition must be
7 required prior to enactment of this rule. It should
8 not be left up to inspectors to establish what is
9 feasible when they come to the workplace.

10 Second item is the astute decision. How
11 does ergonomics affect astute decision? By this I
12 mean how will the general contractor be evaluated
13 when a subcontractor does not or has not complied
14 with the ergonomics rule? What is the general
15 contractor to do if a subcontractor simply does not
16 or will not comply?

17 Third issue is the Washington state versus
18 the OSHA rules as far as ergonomics. Why is
19 Washington state including the construction industry
20 in this rule when OSHA leaves it out? There must be
21 a reason, and wouldn't it be more practical to find
22 out why OSHA left out the construction industry
23 before including it in the proposed rule?

24 As far as costs are concerned, has
25 consideration been given to individual worker

1 replacement costs if their personal tools and
2 equipment do not meet proper ergonomic requirements?
3 Will the workers be required to purchase new tools
4 and equipment to comply with the rule? By the fluid
5 nature of construction, workers come and go
6 routinely, and we would be continually spending
7 money and time to train these workers, and there's
8 no guarantee that when a worker comes from another
9 job that he's been properly trained, and the costs
10 to insure that all workers are properly trained
11 would be extensive.

12 Existing ergonomic activities is a
13 statement made in the rule. Lydig Construction,
14 Incorporated, as per our latest OSHA 200 Log, has
15 had two musculoskeletal disorder claims in 322,809
16 man hours worked this past year. Under the existing
17 ergonomics activities section of the rule will we be
18 required to change the way we operate with this low
19 number of injuries or injury claims?

20 Next is inspection criteria. We'd like to
21 know what criteria will be used to instruct
22 inspectors on conducting ergonomics compliance
23 inspections, and will the public have access to
24 these training criteria so that we might train our
25 employees to the same standards? Will the

1 inspections be objective with physically measurable
2 goals, or will the inspections be subjective? Will
3 the inspectors come and stand for two hours or more
4 watching one individual to insure that no violations
5 occur, or will they conduct vibration tests on
6 equipment or carry a weight measure so they can
7 decide how much things weigh?

8 In conclusion, the implementation time
9 frame is not attainable without specific guidelines
10 that are directly related to the construction
11 industry. Applying general industry standards to
12 the construction industry will create confusion and
13 place an unreasonable time and cost burden on
14 contractors. Thank you.

15 MR. SPENCER: Thank you. Howard Thiemens,
16 Arlene Lumper and Wilford Williams.

17 MR. THIEMENS: Afternoon. My name is
18 Howard Thiemens. I'm with Spokane Industries here
19 in Spokane, Washington. I'm the safety director for
20 our company. So that you know where I'm coming from
21 and the comments I'm making here, you need to know
22 just a little bit about my company. We are in the
23 steel casting business. What does that mean? We
24 make parts from one pound to 500 pounds to 5,000
25 pounds. We make parts that go all over the world,

1 none of it here in Spokane. We rebuilt the Brooklyn
2 Bridge a few years ago. We supplied the armor plate
3 to go on military tanks for the safety of our
4 country. We do a lot of road construction equipment
5 business. We're one of the leaders in it. We make
6 oil field business tools for all over the world, so
7 it's a necessary type of business, and we just
8 happen to be here in Spokane.

9 I had the opportunity to serve on the
10 advisory committee that was mentioned for this
11 ergonomics rule, and there's several issues that I
12 would like to bring up at this meeting. Labor and
13 Industry paints a very nice picture of this
14 regulation. We did have several months of meetings,
15 and a lot of the discussions that were held were
16 what you're hearing here only from different people.
17 There are a lot of concerns on both sides of this
18 issue. I've had the opportunity to represent labor.
19 I've had the opportunity to represent management so
20 I can see both sides of this thing, but there are
21 some issues here that do have to be addressed.

22 First of all, there are some very good
23 points in this proposed ergonomics rule, and we need
24 to concentrate on those also. I do prefer the WISHA
25 rule over the OSHA rule, but, again, it's like being

1 thrown in the snake pit. Do you want to get bit by
2 a rattle snake or do you want to get bit by a cobra
3 as far as a business person goes, but the WISHA rule,
4 hey, I believe it's a lot better than the OSHA rule,
5 maybe because I understand the WISHA rule a little
6 bit clearer.

7 I sat through a presentation yesterday by
8 WISHA that talked about the ergonomics rule. It was
9 an excellent presentation. There were several
10 questions asked, most of them were answered, but the
11 one that really still bothers me and bothers a lot
12 of people here, "to the degree feasible." This term
13 is wide open for debate. I've already been through
14 it with many OSHA inspectors. Some of them are very
15 good in working with you. We do have a couple of
16 them that we've had to spend thousands and thousands
17 and thousands of dollars on because they would not
18 give up on degree feasible, to include bringing in
19 manufacturers of the equipment to say, hey, this
20 can't be done with this.

21 For instance, like a pinch point guarding.
22 You know, there's nowhere in the world or there
23 wasn't any available technology to do this. If you
24 leave this "the degree feasible" in here without
25 better definition, there's a whole bunch of lawyers

1 and a whole bunch of judges and a whole bunch of
2 people going to make a whole bunch of money on this,
3 and the company's not going to win and the
4 employee's not going to win.

5 I asked the trainers that gave the session
6 yesterday how long they would think it would take
7 to do adequate training on this bill or on this
8 regulation. Their answer, about three hours.
9 That's what I figure it will take me to train my
10 employees adequately on this. The cost table says
11 \$1.73 per employee. Well, that's not even ten
12 minutes of their time and, believe me, we don't pay
13 our employees minimum wage. They get a good salary,
14 they get good benefits, and in fairness to
15 everybody, this cost evaluation has to be redone
16 both to the employees and to the companies so we
17 have an actual dollar figure on what this thing is
18 going to cost us.

19 Lifestyle has been discussed. Yes,
20 lifestyle does affect this both in and out of work.
21 How do you separate whether you got an MSD from work
22 or whether you got it away from work? It's very
23 difficult to do. As it's currently written, it
24 looks like the company's going to have to pay for
25 the whole thing.

1 Now, when we were having our meetings, we
2 did hear from Canada who has an ergonomics rule in,
3 but again they're socialized medicine so this really
4 wasn't an issue with them. This thing really has to
5 be given some consideration, and I can tell you and
6 so can any other person that has worked with safety
7 that once a person files a claim in the state of
8 Washington, whether it occurred at work or away from
9 work, it's very hard to prove, and everybody here
10 knows that both do happen. There are legitimate
11 claims and there are claims that are not legitimate.
12 We have to work on that.

13 Caution zone jobs. Ninety-five percent of
14 the people in our plant fall into a caution zone
15 job. Again, we have hundreds of customers,
16 thousands of products, different sizes, shapes,
17 designs. That makes it very difficult in trying to
18 design something to suit all the zone jobs. Who set
19 the guideline factors for the vibration, the 2.5
20 meters per second squared? Who set the hand force,
21 the bending of the neck, the gripping? Who made the
22 determination of two hours, four hours, et cetera?
23 You know, there's been talk of it, the College of
24 Science, this is still all a big gray area, and
25 other people have already mentioned size of the

1 person. You know, that's a factor we've got to look
2 at. There are some people that can't even lift 50
3 pounds one time a day, let alone 25. There are
4 others that lift hundred to two hundred pounds.
5 They go home. They do weight lifting. Those are
6 general concerns.

7 Let me tell you a little bit about what
8 Spokane is going to do and how we're going to be
9 affected by this proposal. As the proposal
10 currently reads and the way I interpret it and the
11 way I gave it to other people to interpret, 230
12 people, employees at Spokane earning a good wage are
13 out of business, bottom line. Why? It has to do
14 with the vibration end of this thing. Mike Fuller
15 addressed it a little bit earlier, but I've had
16 other people look at it, and, yes, you can say this
17 is the intent, but it says in there this must be
18 reduced. Five years from now ten years from now we
19 get an inspector in there. Michael is gone. I'm
20 gone. You guys are gone. No one's going to
21 remember what the testimony was today or the intent.
22 They're going to read it and say this is the way I
23 read it.

24 Why is it going to be -- why is our
25 company going to be gone? Part of the manufacturing

1 of steel castings is to remove the riser from the
2 product. Remember, we're a jobbing operation so it
3 has to be manually done. The hand grinder you grip
4 weighs sixteen pounds, has a high repetition motor,
5 has a vibration factor which exceeds the 2.5. We
6 just talked to Milwaukee Tool again to make sure
7 there is a grinder out there that might be able to
8 come down to that 2.5. There isn't. There is no
9 available technology to do this. Without the
10 available technology to get in compliance, we're up
11 a creek, and under Step 4 under the vibration, it
12 says this hazard must be controlled. Never mind the
13 great words "to a degree feasible." That's not in
14 there under Step 4. It says it must be controlled.

15 We have worked with manufacturers of hand
16 grinders for ten to fifteen years designing
17 different sizes, shapes, et cetera. We have
18 designed work stations that are adjustable. We have
19 used computer model solidification to redesign parts
20 so the costs are as minimal as can be. We've worked
21 with the customer trying to design them to make them
22 just as easy to work with as possible.

23 Two years ago we heard about a new
24 knock-off machine that would reduce MSDs. It was
25 down in Texas. I loaded up casting, sent them down

1 to Dallas, Texas. As soon as the casting arrived I
2 flew down there I went down and tried the machine.
3 As soon as I got back to Spokane we ordered a
4 \$60,000 machine. We have advertised it everywhere
5 we can for this company. It helped reduce the total
6 amount of work that was done, but we're still way
7 out of compliance.

8 Four years ago we knew we had to address
9 several ergonomic issues. We ordered and put in a
10 new 6,000 or, excuse me, a six million dollar
11 moulding line. We -- mind you, we're a
12 privately-owned company by a family here in Spokane.
13 Six million dollars, that's a lot of money for a
14 family to come up with, and two million of that six
15 million were nothing but ergonomics, the push, the
16 pull, the lifting, make sure the employees didn't
17 have to do it. It's going to take a few years to
18 pay that dollar sign off. We still have two more
19 lines that we want to convert, but we certainly
20 aren't going to be able to do it in three years.

21 My point being manufacturing has to be
22 able to turn a profit to stay in business. I think
23 everybody will agree with that. We have spent big
24 bucks on ergonomics. We want to try and come in
25 compliance. Our employee is our most valuable asset

1 and we work towards that goal, but as this thing is
2 written we cannot do that.

3 In summary, we do have to take care of
4 this "degree feasible" statement. We do have to
5 look at what the actual costs are going to be. They
6 have to be redone, and I think if we work together,
7 we can come up with something that is feasible and
8 will work for everybody here, but as this thing now
9 is written, I have to strongly oppose any regulation
10 being put in in the state of Washington. Thank you.

11 MR. SPENCER: Thank you.

12 MS. LUMPER: My name is Arlene Lumper,
13 L-u-m-p-e-r. I worked for Boeing-Spokane for eight
14 and a half years, and I'm your worst nightmare. I
15 have a history -- eight-year history of repetitive
16 problems.

17 I was injured in '91. I went to the
18 doctor, filed a claim. I went back to work. I was
19 put right back into the job I was doing. I
20 continued to work, went back to my doctor, and he
21 had scheduled an EMG test that was done 5/2 of '92.
22 The results of that was carpal tunnel in right hand.
23 Filed another claim, continued to work in pain.
24 Crawford claims manager told me there was too many
25 people crying of carpal tunnel and told me my claim

1 was denied.

2 I got a new claims manager, and I was
3 missing a lot of work, and I was wrote up, and I was
4 at work and I was given a CAM for lack of being
5 there or attendance.

6 Still working in same repetitive job,
7 filed several more claims, still denied, not enough
8 evidence. I asked what about the EMG test that was
9 done in '92? Now we're into '93. Went off the job
10 at Christmas time. Finally the surgery was okayed.
11 I had the surgery 2/14 of '94. I worked 18 months
12 in a repetitive job that gave me a lot of pain with
13 a co-worker. Dr. Conaty was the surgeon. I was off
14 eight weeks.

15 Came back to work, put right back into the
16 same job I was doing. Very weak state for wrist.
17 Worked three more months and was again taken off. I
18 had left hand carpal tunnel. Surgery was 7/21 of
19 '95. I was off seven weeks. Went through some
20 therapy. Came back to work in November. I was
21 taken off of work again because I had ripped
22 rhomboid muscles in my back, cervical strain and
23 neck strain, but I was put right back into the same
24 job I was doing when I got hurt.

25 Was off for four months, went through a

1 work hardening program, came back to work in the
2 spring of '96. Boeing was offering classes that we
3 all had to go through to become better at our jobs
4 and make the company better. This saved my life
5 because it gave me some reprieve or some healing
6 time. I worked until '96 of October.

7 I was taken off work again for swollen
8 wrists. I went to E.R., returned back to work and
9 was put back into the same job again. Four of '97
10 I was taken off work again for swollen wrists.
11 Boeing was doing some changing of the work area to
12 better it. I was put into an area as a kidder
13 (phonetic) which means I did not have to do
14 repetitive motion. This was fine. I did this until
15 12/98.

16 The company gave me a job analyses to give
17 to my doctor for review. There was three. I took
18 them to my doctor. He reviewed them. He signed
19 them. I took them back to work. These job analyses
20 were done by Crawford and by Stuart Associates.
21 They also were approved by Crawford, the other ones.

22 I took a leave of absence because I had
23 female surgery. I was off work for eight weeks. I
24 came back to work. Boeing didn't place me in those
25 job analyses right away. I was put into an area

1 where I did filing until my restrictions were
2 brought in saying that I could do lifting and
3 whatever.

4 On 4/9 of '98 a second level boss came and
5 told me that I was going to a job that was not in
6 the job analysis that was reviewed by my doctor. I
7 told him that. He said that was a final decision.
8 I argued with him. I ended up going to that job.
9 Five hours later I ended up in emergency. I came
10 back to work. I was put on light duty for short
11 while.

12 Then I was put into Cell F where I was
13 doing fine because my boss understood the history of
14 my problems and told me that the jobs that he had at
15 that time I could do. I worked -- I finally
16 started -- I started having more problems.

17 I went into the doctor, and the doctor
18 said we're going to have you go through some wrist
19 arthrograms. This is where they stick needles in
20 your wrist, and they lay you out on a table and they
21 pump dye in there to find out what's going on in
22 your wrists. The results of that is I have torn
23 ligaments in my wrist.

24 I went back to work with the return to
25 work. They told me that they didn't have anything.

1 I was terminated 4/15 of '99.

2 I've went to several IME doctors during
3 this time, this eight years. I would like to know
4 who monitors them because the things that they've
5 said are not fact because they ask for the x-rays,
6 they ask for your tests, but they say that it's not
7 job-related. Each time that I've went to one of
8 these through the period of this eight years I was
9 put right back into a job because Crawford says that
10 I'm okay, so Boeing puts you right back into the job
11 that you got hurt in.

12 At one point one IME doctor asked me if I
13 needed surgery, and at another point I had to have
14 the medical nurse at Boeing stop the one IME doctor
15 from one -- they wanted to do a ganglion block on
16 me. I have wrist problems and have a wrist problem
17 history for almost eight years at this time, and
18 they wanted to shoot dye into my shoulder to see if
19 I had a torn rotary cuff which has never been a
20 problem in the history that I have given.

21 I was assigned a case worker who went
22 behind -- who went to the doctors and gave them
23 questionnaires that the company had given them that
24 were very vague, according to my lawyer, and they
25 were intimidated by this. What gives her the right

1 to go to my doctors behind my back and seek these
2 questions? One doctor was very intimidated, and he
3 refused to answer the questions. My rights have
4 been violated.

5 Also during this period of eight years I
6 suffered a harassment where I was set up in front of
7 my fellow workers, and a boss -- because my parts
8 were supposedly not doing -- they were bad, but
9 given the wrist weakness and stuff then I shouldn't
10 have been doing those jobs to begin with.

11 Thank you for your time. I appreciate it.
12 I have eight years of documents I left with Jennie,
13 and if you'd like this outline history, you can have
14 it.

15 MR. SPENCER: Thank you.

16 MS. LUMPER: You bet.

17 MR. WILLIAMS: My name is Wilford
18 Williams, and I live at 2414 North 8th, Coeur
19 d'Alene, Idaho. I hurt my back at Kaiser in 1978,
20 February the 2nd. I was making charges at the halls
21 from almost one end of the building to the other.
22 We had stand-up trucks, so they got rid of those.
23 They were battery trucks and got sit-down trucks.
24 They had brought trucks in there for us to try out,
25 say which ones worked the best and rode the best.

1 Well, they didn't get the ones that we
2 recommended. They got a different kind, and it had
3 a -- the tires on it, uh -- the ones we had before
4 had a natural rubber, and the ones that -- the new
5 ones had a synthetic, uh, plastic or something. It
6 had the effect of one of those little balls you
7 could drop here, and it'd hit the ceiling, and it
8 was -- they skimmed the furnace and they took that
9 down the aisles with the metal dripping, and it
10 was -- what it was like was sitting on a jackhammer
11 out here in the street until your back went out, and
12 it had that effect, and about three days my back
13 started bothering me so I reported to the
14 supervision, and it done no good, so about the third
15 night I was on swing shift.

16 My back started to bother me. I got done
17 about 30 minutes before quitting time so I told the
18 foreman my back didn't feel good so I went home, but
19 we go to the locker and change clothes, but it kept
20 getting worse, so I got home and I couldn't go to
21 sleep, so I got up at four o'clock in the middle of
22 the night and went back to first aid.

23 If you don't report it right away, well,
24 you've really got a problem, so come the next
25 morning I went to my doctor, and he put me off work.

1 He give me a slip to be off work, so I had to take
2 the paperwork, and within a week -- this is
3 self-insured now. The company has an administrator
4 that takes care of all that state industrial.

5 Well, I can't hardly move. I can't put my
6 socks on, so she says, well, maybe you ought to
7 go -- you might have to go see a psychiatrist.
8 Well, that's -- that's what you want to do to get
9 your back well, isn't it? So then within a -- it
10 just didn't get any better, and I was off for I
11 don't know the exact time, I'll say four months, but
12 every time I would go to her, why, she told me that
13 my doctor said that I was able -- told her that my
14 doctor said that I was able to come back to work.

15 Well, I know that wasn't true so I
16 asked -- as soon as I went to him I asked him, and
17 he said no, I did not say it, you know, so there was
18 a lot of pressure for me to come back to work, so
19 then after I wasn't able to go in a month, she has
20 the authority to go pick a doctor and just send you
21 to him, and that doctor's programmed.

22 So I go to him and, uh, he examined me.
23 He taps you on the leg or the knees with a little
24 rubber hammer and runs a thing down your leg, a
25 little roller, I guess to see if you've got feeling.

1 I don't know what it's for. Then he looks at you.
2 I had a bone -- two bone scans, I believe, two MRI
3 scans and some x-rays, but they don't show
4 everything, so anyway, after about six months I
5 thought maybe I could go back to work so I had --
6 there's a piece of paper laying in my garage, and I
7 reached down to pick it up, and, boy, I couldn't
8 hardly move, so I went back to my doctor and I had
9 to establish some more, but there's always a big
10 pressure on you, so I was going to go back and try.
11 Well, I went back, and I got a slip from
12 my doctor that says I can't pick up five pounds, I
13 can't pick up ten pounds, and I can't pick up
14 fifteen, so I goes into the department and I gives
15 it to the foreman, and he says, "What you doing back
16 here?" He says, "You can't do nothing," you know.
17 Well, I had to beg him to let me in, so I told him,
18 I said I can go in the charge crane. You know, it
19 wasn't riding a truck any more, and I couldn't pick
20 up nothing, so I trained some people about a week
21 just on the scale, showing them how to work that and
22 stuff, so I got on the crane and I worked a while.
23 Well, that's a charge crane that is
24 dumping those pipes that come from the heat and they
25 take the buckets in there that got a strap in it and

1 all that, and, uh, this was during the time that
2 they were remodeling the whole thing out there, so I
3 worked a while, and, uh, I have to go off again,
4 and, uh -- and on the crane you can work two hours
5 and you're off two.

6 Well, when I'd get off the -- get my two
7 hours in, I'd go over to first aid and lay under the
8 heat lamp about an hour because it helped me feel
9 better, so after that the -- so I had to go off
10 again. My doctor put me off. I just couldn't work,
11 so I was off I'd say a month or so, so I get this
12 letter in the mail that said I got to go to
13 Dr. James Williams, and he was a doctor that my
14 doctor had sent me to, and he was a good doctor, but
15 when she sent me to him, I went in there, and he met
16 me at the door and he was really mad. He said,
17 "What are you doing back in here?" I said, "I have
18 a letter from Dorothy," that was the person's name
19 that sent me -- that said I had to go see him, and
20 if I didn't go, my benefits would be cut off.

21 Well, I got out of there about 4:30, but
22 when he got done, I notified to go back to work it
23 was going to make he worse, so I asked him -- he sat
24 down on one side of the desk, and I was on the
25 other. I said, "Do you think I'm ale able to go

1 back to work?" He said, "Well, that's a decision I
2 won't make. It'd be up to your doctor and
3 Dr. Wolf." That was the company doctor.

4 Well, the next morning in the mail at
5 eleven o'clock I get this letter, your benefits are
6 cut off, but that letter had been mailed before I
7 went to the doctor. Now, so I went in there -- so
8 my doc -- they didn't say nothing. My doctor didn't
9 have no say in it. It was all the administrator and
10 a company doctor, and he didn't either, so I had to
11 go back to work or lose my job, so I went in and
12 worked one swing shift.

13 Well, after that shift -- now I'm running
14 the charge crane now. There's hot metal in it.
15 After one shift I couldn't move hardly, so I thought
16 if I could go to the company doctor, Dr. Wolf, he
17 can see I cannot work, but he couldn't see nothing,
18 so I let him give me a prescription, and he said --
19 I was going to change from swing and go on
20 graveyard. He said take it twelve hours before you
21 go to work.

22 Well, I went and got it filled. I didn't
23 feel good. I didn't look good. I just took it
24 twelve and noon and was going to work at twelve at
25 night, and I done like he said, so I went to sleep

1 right away after I got it. A friend come by. My
2 wife woke me up. After he left, I ate supper and
3 went back to bed and got up at 10:30, and I had a
4 lucky break. A friend of mine I was riding with, so
5 as soon as I got in that car I went to sleep, so I'm
6 going to be going up there running that charge crane
7 with all of my friends, so I goes up to the charge
8 crane and turns the power on and it's dead, so it's
9 broke, so it goes down there so -- it's a stairway
10 up there, and I goes up there to tell them the crane
11 had broke, so I collapsed.

12 I just went down. I couldn't move, so the
13 people come over from first aid, and I couldn't let
14 them touch me. I had to slide on a deal the best I
15 could, so, uh, they supposedly took me home or
16 called my wife to come and get me, so I was about
17 a -- but then she done put me on state industrial.
18 She put me on another insurance that we have, you
19 know, if you're hurt at home or any other place, and
20 she -- I didn't know she had control of both of
21 them.

22 Well, that was in October, so she tried to
23 starve me out. I didn't get no money October,
24 November, December, January and February. Well,
25 that's when you have all your bills.

1 MR. SPENCER: Mr. Williams, you've been
2 going on now for quite a long time. We have plenty
3 of people that still need to testify.

4 MR. WILLIAMS: Can I tell somebody else
5 the rest of it?

6 MR. SPENCER: What you can do is when
7 we're done, we'll bring you back up.

8 MR. WILLIAMS: Oh, okay.

9 MR. SPENCER: So we can facilitate
10 everybody.

11 MR. WILLIAMS: That's fine.

12 MR. SPENCER: At this time I'd like to
13 take about a five-minute break. There are restroom
14 facilities over to your right. The next group we'll
15 have come up is Susan Silva, Larry Hall and Susan
16 Fagan.

17 (Recess taken.)

18 MS. SILVA: My name is Susan Claudia
19 Silva. That is spelled S-i-l-v-a. I am testifying
20 for myself and for Communication Workers of America
21 Local 7818.

22 Ladies and gentlemen, I am honored to be
23 testifying before this committee. For a long time I
24 have wanted to tell my story. In 1979 I went to
25 work as an operator for Pacific Northwest Bell. The

1 nature of the job required constant keying,
2 processing a high volume of calls, approximately 900
3 in an eight-hour shift. I was the operator you
4 called when you needed a phone number for the pizza
5 joint or you wanted to place a long distance call.

6 I was an excellent employee, and in 1981 I
7 was promoted to the position of a customer service
8 marketing representative. Again, the nature of the
9 work was a high volume of calls, anywhere from 80 to
10 100 calls a day. My customer service skills and
11 sales quotas were excellent. I was a United Way
12 solicitor. I was a union steward. I was involved
13 with the YWCA school for the homeless. I was a
14 member of numerous union and company committees. I
15 was the service rep you spoke to when you moved or
16 you added call waiting to your phone. My customers
17 loved me, and I was the recipient of numerous awards
18 and customer commendations.

19 In other words, I was good, but in 1991 I
20 began having problems sleeping. I would be awakened
21 because the sensation of feeling in my hands and
22 arms was gone. My hands and arms were numb. My
23 neck was on fire, and when the feeling finally
24 returned to my hands, they were in constant pain.

25 Upon a visit to my physician, he felt that

1 the problems were due to the repetitive nature of my
2 work. I was then diagnosed with tendinitis and
3 cervical strain. My physician put me on
4 anti-inflammatory drugs and physical therapy.
5 Physical therapy seemed to improve my symptoms while
6 I temporarily performed another job.

7 Finally I went back to my job as a service
8 rep. Back at the job, I functioned satisfactorily
9 at first, but after a while the symptoms got bad
10 again just like in 1991. I had difficulty
11 functioning on a daily basis. To perform normal
12 tasks like cutting vegetables, pulling weeds,
13 driving, doing laundry, putting gas in my car or
14 scrubbing my kitchen floor caused me extreme pain.

15 Upon my physician's recommendations an
16 articulated keyboard was purchased, but the demands
17 of my job still involved taking more calls and
18 keying more. In an average day 80 to 90 calls were
19 processed, with most calls resulting in one or two
20 computerized orders along with processing ten
21 different computer systems in order to accomplish
22 the task. Nothing seemed to help, and again I was
23 removed from my work.

24 Finding myself again in intense physical
25 therapy, I seemed to obtain relief from my problems.

1 However, as soon as I returned to work the symptoms
2 were exacerbated. In 1993 I requested that an
3 ergonomic design specialist scrutinize my work
4 station.

5 An occupational physical therapist,
6 Mr. Terry Andres, examined my work station. The
7 desk was a 1950-circa steel case desk set too high
8 with a chair that did not give me support where
9 needed. The terminal was at an incorrect angle, and
10 to reach for the telephone and manuals was too far
11 for my correct reach. In other words, the entire
12 work station was wrong. No wonder I was having
13 serious problems.

14 To expedite my story, I will hit the high
15 points. A recommendation was made by Terry Andres
16 to redesign my desk. U.S. West Communications
17 refused to pay \$2,000 to procure a work station for
18 my body. Recommendations from the occupational
19 therapist were not acted upon, and in 1994 I was
20 fired from my job as I would not return to work
21 against the recommendations of my physician.

22 Lengthy, costly painful legal battles
23 secured two carpal tunnel surgeries. Another
24 lengthy legal battle settled my constructive
25 discharge.

1 Six years later I am improved, but I will
2 always have tendinitis and hand pain. My neck will
3 always hurt, and I have degenerative spondylosis in
4 my neck. My life is changed irrevocably forever.

5 None of us have any control over the past,
6 but as we sit here today hopefully I can help you
7 understand how reasonable, common sense changes can
8 prevent my nightmare from occurring to another
9 worker. I unequivocally believe that if my desk had
10 been properly designed and if I had had sufficient
11 breaks from the constant keying, I would have 21
12 years with U.S. West instead of 15.

13 If the nature of the work treated you as a
14 human being instead of as a machine measuring and
15 penalizing for every second that you were not
16 keying, I do not believe I would be testifying
17 before you today. In the future let there be no
18 workers have to suffer as I have. These problems
19 are preventable with reasonable breaks and
20 ergonomically-designed work stations. No worker
21 should be used up and then discarded as a piece of
22 garbage. We are not machines. We are people who
23 deserve to be treated with dignity and respect. I
24 thank you.

25 MR. SPENCER: Thank you.

1 MR. HALL: Good afternoon. I'm Larry
2 Hall, H-a-l-l, and I'm representing the United Food
3 and Commercial Workers Union Local 1439. We
4 represent approximately 6,500 workers in Eastern
5 Washington, and I'd like to thank you for coming to
6 Spokane and giving us the opportunity to testify.

7 You know, I sat over here and listened to
8 some of the workers give their stories. One of the
9 things I do with our local is help people that have
10 workers' comp problems, and I think if we had a rule
11 like this a long time ago, I probably would've had
12 less of an opportunity to hear these kinds of
13 stories. I think it's important that we hear them
14 because it's important that we all understand how
15 workers are suffering because there is no such rule.

16 Today I'd like to talk about our members
17 in the retail grocery industry and those that work
18 in offices. I've been actively involved and
19 interested in ergonomics since about 1987. At that
20 time I represented a small grocery store that had
21 twelve checkers that did the work. That was their
22 major work. Of those twelve, four had had carpal
23 tunnel surgery. When you think about, four people
24 having surgery, that's not so bad, but when it's 25
25 percent of the work force, that's horrible, and I

1 didn't know anything about the issue at the time,
2 and so I got real involved, interested, tried to
3 study it.

4 Since then I've read and researched the
5 issue of ergonomics in the workplace. I've looked
6 into the office work station designs, checkstand
7 design as well as ergonomic problems in meat
8 departments, delis and other departments in grocery
9 stores. Bev Kincaid, who was a representative for
10 United Food and Commercial Workers Local 381, kept
11 me up to date on the work of the Ergonomics
12 Guideline Advisory Committee which she was appointed
13 to in 1992.

14 After all these years of study and
15 discussion you have developed this proposed rule,
16 and we thank you for that. Those that are
17 continuing to pretend that this rule isn't needed
18 are just being ridiculous in my opinion.

19 Many of our members suffer from the type
20 of injuries that this rule would cover. A grocery
21 checker scans up to 24,000 items a week and bags
22 around 30,000 pounds of groceries. Who knows how
23 many strokes on the keyboard the average computer
24 operator makes over the course of a day. Anyone
25 that is in an office environment or that goes

1 through a checkstand sees workers wearing the wrist
2 braces.

3 The general regulations have proven
4 insufficient. In 1994 our union filed some
5 complaints with L&I concerning these kinds of
6 problems in various grocery stores. We wanted SHARP
7 to come in and investigate and look at the workers
8 and see if they could help design and figure out
9 some of the problems they were having to cure them.
10 In the end, it was recommended that we withdraw our
11 complaint because there was no ergonomic rule, and
12 we were told that the general regulations were not
13 specific enough.

14 Don't get me wrong. We're not interested
15 in punishing employers. We're interested in the
16 safe workplace. This book on office ergonomics,
17 Practical Solutions to a Safer Workplace, was
18 produced by L&I, and it's been very helpful in our
19 Local's office. I went out and got some copies of
20 it. I presented them to our office manager, and I
21 also represent three workers in three other offices
22 and presented it to their office managers. Those
23 employers have shown an interest in trying to design
24 work stations that help their employees work safer.
25 Using this book went a long way towards helping them

1 design those work stations.

2 Sometimes simple solutions like wrist
3 pads, ergonomic mouse pads, adjustable keyboards
4 help people work safer, and they aren't necessarily
5 always expensive. I believe it would be very
6 helpful to our members and their supervisors to
7 receive ergonomic awareness education and refresher
8 training every three years. Just being told that
9 they should not tie every plastic bag, that they
10 shouldn't have the bag stands for the plastic bags
11 up on their checkstand but down in a bag well and
12 that, yeah, bowling or knitting can make carpal
13 tunnel or tendinitis worse will enable them to
14 understand the problems that could arise. It will
15 also point out the risk involved with their jobs and
16 hopefully encourage better work practices and
17 earlier reporting of medical problems, which we all
18 know is a key to dealing with these injuries without
19 surgery.

20 Finally, it is my understanding that WISHA
21 is willing to help employers identify and come up
22 with solutions to ergonomic problems. Some
23 employers do not have the resources to do this by
24 themselves, and help from L&I will go a long way
25 towards helping these employers keep injuries and

1 the cost of claims down. Thank you.

2 MR. SPENCER: Thank you.

3 MS. FAGAN: Hi. My name is Susan Fagan.

4 The last name is spelled F-a-g-a-n. I'm from
5 Pullman, Washington, and I represent a company -- a
6 manufacturing company in Pullman, Switzer
7 Engineering Laboratories. We have 432 employees.
8 We're a relatively new company. We were founded in
9 1982, and we are an employee-owned company so we
10 have a lot of -- our employees are empowered to
11 address problems at their work stations and through
12 the processes that we have.

13 We manufacture digital protective relays,
14 and so we have a lot of engineers, we have a lot of
15 assemblers, we have a lot of technicians, so when I
16 hear Susan's story and others, my heart really goes
17 out to individuals like that because -- and then I
18 say such tough regulations applied across the board,
19 I'm wondering if there isn't something in between
20 where you have to -- we're not quite through the 40
21 pages of regulations depending on where you get the
22 copy, so our written comments are yet to come, and
23 we appreciate the fact that you are holding the
24 comment period open until February 14th, but because
25 our company and our employee owners are in a

1 position and we have implemented programs and
2 continue to improve them, we would have to ask why
3 such stringent measures across the board?

4 Is there -- I've heard other people today
5 talk about pilot programs, and I would not want
6 these people here that have been injured to say,
7 yeah, yeah, pilot programs, you know, will that help
8 us right away because, again, when you're the
9 injured person, you know, you're looking for -- you
10 want something to happen now, and so I'd say that we
11 will show that kind of concern at our company, and
12 because we have an interesting and a really an
13 excellent management style where our employee owners
14 are empowered to determine what's going on at their
15 work station or -- and the work stations around
16 them, and we've got a quality process in place that
17 I think is a terrific model, that these kind of
18 rules are not going to help us get to where we need
19 to be.

20 I think we're doing most, if not all of
21 these things voluntarily, so to implement something
22 so -- and I use the word strident because from our
23 perspective it is, and I realize it's not strident
24 from other people's point of view who are, you know,
25 dealing with problems that we don't happen to be

1 dealing with, so I would say that we belong to
2 several associations, and of course our, you know,
3 business associations are very concerned about this,
4 and they address -- a lot of businesses belong, big
5 and small, but our intention -- we got the
6 information from our associations, and we've looked
7 it over, but our intention is to not just say to you
8 one, two, three, four, five, six, this is wrong with
9 this. Our intention is to look at each of the items
10 in the regulations and say this is how it will
11 impact our business directly.

12 Our safety people, our manufacturing
13 people and our human resources people are helping
14 provide detailed information, and I think that
15 will -- I think that will be helpful. We've talked
16 to -- a couple of days ago we met with our mayor and
17 our city supervisor, too, who have -- so I see the
18 concern not just coming from business. I see it
19 coming from other entities who are saying this stuff
20 is going to be really tough, and then today I've
21 learned a lot by listening to the other witnesses
22 regarding the question of feasible and how -- and it
23 always worries me when people start saying judges
24 and lawyers are going to have, you know, a lot of
25 business regarding that, so if there's some way to

1 fix that.

2 We will offer our comments and ask that
3 you take a serious look at them, which I know that
4 you will. I don't know what the next step is. Is
5 it final? I mean, is this rule making final, and
6 how do you digest the comments that you get here
7 today? And once the hearing record closes on
8 February 14th we'll be watching very closely and
9 looking forward to working with you and appreciate
10 the fact that you come to Spokane and hold the
11 hearing, and we'll be paying close attention and
12 willing to work with you and provide any additional
13 information from our company. Thank you.

14 MR. SPENCER: Thank you.

15 MR. HOSKIN: My name is Tim Hoskin, and
16 I'm an employee with Conway Western Express here in
17 Spokane. I would just like to make five quick
18 observations concerning the rules as I've come to
19 understand them in the preliminary reading so far.

20 First and foremost, I don't see anything
21 in the rules that do anything to address and insure
22 that employees in caution zone positions do what is
23 necessary to insure their own fitness for the
24 position.

25 As with other rules and regulations placed

1 down by WISHA, I do not believe that the costs have
2 been realistically estimated for any form of the
3 implementation of this ruling. I will use -- I've
4 heard fall protection mentioned several times today.
5 One that in certain industries I feel it's a very
6 good rule, but one in other areas makes no sense.

7 As in my own in my facility it costs me
8 between 160 and \$200 to change a ten-dollar light
9 bulb because of what I have to hire -- who I have to
10 hire to come in and do it in order to follow the
11 letter of the law with fall protection.

12 Your best standards that are yet to be
13 developed for this ruling should have been developed
14 prior to any proposal or any proposed rule or ruling
15 being put into place. Then maybe the real need for
16 the rule could be accurately determined.

17 The rule does not look completely enough
18 at businesses where a lack of feasibility for coming
19 into or covering the caution zone jobs is obvious
20 and then taking steps necessary to exempt them so
21 that undue cost is not incurred.

22 The rule as I see it now in some cases
23 that follows the letter of the law will protect
24 certain employees including myself out of a
25 full-time job. By nature, the industry I work in

1 100 percent of our positions in our company,
2 including mine as a manager, falls into caution zone
3 jobs, with the feasibility being impossible to
4 cover. To come to the letter of my law, my 27
5 full-time employees including myself will lose their
6 full-time positions and be relegated to part-time
7 jobs that do not pay a full-time wage.

8 It's very simple to see that truck drivers
9 have to sit for long hours. Their heads bend in
10 repetitive motions to look at gauges. Their arms
11 move in repetitive motion to shift gears. Trucks
12 vibrate beyond anything that you've listed in your
13 ruling, and there's nothing that can be done to
14 prevent it. They hit jarring bumps. Trailers have
15 to be loaded. Freight has to be moved. Freight
16 bills have to be billed, and computer work is
17 constant in our industry.

18 Last point that I would like to make is an
19 understanding that I have come by reading about the
20 National OSHA ruling, and it's something I think
21 that bears mind here. It is my understanding that
22 the United States Postal Service employees have been
23 exempted from the Federal OSHA ergonomic rulings.
24 Will WISHA also be exempting state agencies where
25 caution zones are infeasible to correct? Thank you

1 very much.

2 MR. SPENCER: Thank you.

3 MR. KERNS: Jim Kerns. I'm the Safety
4 Risk Manager and Safety Professional Education
5 Service District 101 representing 59 school
6 districts in northeastern Washington, about 10,000
7 school employees and a self-insurance pool. I'm
8 also the immediate past president of the Northwest
9 chapter of the American Society of Safety Engineers
10 and was asked by the president if I would at least
11 express the idea today because he wished to submit
12 testimony. He was not able to be here today but
13 will submit testimony in writing.

14 As you may have noticed or may not have
15 noticed, I was called away from the meeting so I
16 don't know what's been said here the last hour and a
17 half, and I just walked back in the door. This is
18 called perfect timing.

19 I don't want to repeat what everybody else
20 has said. I have a lot of the same concerns. The
21 feasibility thing, the cost estimates is way off,
22 the four hours, all of these things are concerns,
23 and I'll submit that testimony in writing.

24 Not pretending to speak for 10,000
25 employees and not pretending to speak for 150 state

1 professionals but speaking for only myself, there's
2 a few concerns that I would have as to how I would
3 implement my job personally, how I would perform my
4 job with this regulation.

5 I see the training thing to be just
6 insane. I can't go out into the market place and
7 purchase a coastal training thing or a J.J. Keller
8 training thing or -- I can't buy anything outside
9 the state and implement training throughout our
10 workplaces when we have a completely different
11 regulation than the rest of the country.

12 For years I've been coming to these
13 hearings and asking the state of Washington to take
14 the OSHA regulations and adopt them. We did that,
15 for instance, with blood-borne pathogens, and I think
16 the implementation of the BBP regulation was
17 extremely successful. I know from a personal
18 standpoint it was very easy for me to go out and buy
19 and purchase and get the assistance I needed to
20 train our work force and to implement those
21 regulations. When we attack something completely
22 differently, as we've done with this regulation, it
23 just makes it almost impossible.

24 The second thing besides my efforts in
25 training that make it impossible is the employees

1 themselves. I visit a workplace or I put on a
2 training session and I find the same things that you
3 found here today. A gentleman stood up and said,
4 well, construction is exempted. No, no, not in the
5 state of Washington it's not. We have a different
6 regulation. Construction is covered. I get that
7 over and over and over again with regulations where
8 we conflict with the national standard where we're
9 just diametrically opposed to the national standard.

10 Our folks read national magazines. Their
11 unions give them national standards. The management
12 organizations provide national standards to our
13 management personnel. It all comes back to me.
14 Aren't you doing this wrong? Didn't you do -- no,
15 in the state of Washington it's radically different.
16 This is just a real problem for people that are out
17 here doing accident prevention work and in our state
18 and are really close to it.

19 Mr. Silverstein or Dr. Silverstein used
20 the fall protection standard. I remember the
21 problems we had implementing fall protection
22 standards in the state of Washington. Was it ten
23 feet? Was it eight feet? Was it six feet? It was
24 four feet, then it was six feet, then we went to
25 court, and then we had to go back to the national.

1 It was a mess, and, you know, every one of my
2 workplaces came back and said, gee, aren't you
3 wrong, Jim? Isn't it eight? Isn't it ten? Isn't
4 it six? Isn't it four? You know, if we took a vote
5 of this room, how many people know what it is?

6 Why don't we adopt national standards? If
7 we need to tune them up for our particular
8 variations in the Inland Northwest for the rain in
9 Seattle or the humidity in Spokane or whatever we
10 need to make local adjustments to a national
11 regulation, I think that's reasonable to do. To
12 just attack this thing from a totally out of the
13 ballpark different thing is just ridiculous as far
14 as implementation and putting it into the workplace.

15 I attended the National Safety Congress
16 this year in New Orleans and attended the ergonomic
17 session. OSHA people were there. One of the
18 comments that was made, which I thought was really
19 kind of silly, was we don't think we can get this
20 through the Federal Congress, but with states like
21 Washington, and I think it was North Carolina and
22 some other states, if they will pass the standard,
23 then we can go on their coat tails and we can get on
24 board, and we'll be able to get this standard passed
25 nationally. I think that's ridiculous.

1 We're going to have four or five states
2 out here with radically different standards and then
3 OSHA will come in. It's going to take years to get
4 this thing figured out, figure what we're supposed
5 to do to protect our employees, and I'm by know
6 means saying I'm opposed to an ergo standard. I
7 believe we need an ergo standard for those employers
8 who are not protecting their workers adequately, and
9 we have heard some of them speak here today. The
10 concept of an ergo standard is great. I think we
11 ought to adopt the federal standard and use the
12 federal standard, whatever that federal standard is.

13 But, you know, my other -- I have two
14 other comments very quickly here coming from a
15 different point of view. One is if OSHA has to go
16 to the Federal Congress to pass this law, how can
17 the State of Washington do it by regulation? Don't
18 we have to go to our State Legislature to pass this
19 new regulation? This is not an extension of an OSHA
20 regulation that we're going to meet or exceed. It's
21 not an extension of some other existing regulation.
22 Don't we have to go to the legislature and ask them
23 to pass this new law that we're talking about? I
24 can't get an answer to that question.

25 I'm certainly going to ask my legislators

1 during the next couple of months, and then my last
2 comment is if we are adopting a prevention-based
3 plan, which is okay, and OSHA's adopting an
4 injury-based plan, which is different, and that's
5 okay, too, either one would probably get the job
6 done, aren't we going to wind up in the state of
7 Washington having to meet or exceed both of these
8 regulations and do the injury prevention and the
9 injury based? Aren't we going to have a standard
10 that does not include provisions for medical
11 management and a standard that does provide
12 provisions for medical management? Aren't we going
13 to get the best of both or the worst of both,
14 whichever way you look at it, and I see a problem
15 there like we had with other regulations I had
16 mentioned, so I will submit it to a couple of pages
17 of other technical regulations without trying to
18 repeat things that were said perhaps when I wasn't
19 in the room. Thank you very much.

20 MR. SPENCER: Thank you.

21 MR. WOOD: My name is Edward Wood, spelled
22 W-o-o-d, Jr., and I'm the President of the
23 Communication Workers of America Local 7818 here in
24 Spokane, Washington. We represent approximately 685
25 people that work in the telephone industry. They

1 work for companies such as U.S. West Communications,
2 AT&T, Lucent Technologies and Century Telephone.

3 Employees that work in this industry have
4 a multitude of problems with musculoskeletal
5 disorders. The most prominent of these are carpal
6 tunnel syndrome, tendinitis, thoracic outlet
7 syndrome, back and neck problems. The repetitive
8 motions required to perform their jobs causes most
9 of these injuries.

10 For the purposes of my testimony I'm going
11 to use as an example a directory assistance operator
12 working for U. S. West Communications. They work in
13 a newly remodeled office with ergonomic desks,
14 lights and chairs, but this equipment is shared by
15 the operators during their rotation of shifts. It's
16 not equipment specifically for them. Only when an
17 employee goes out on workers' compensation or a
18 company benefits and a prescription is written by an
19 attending physician or an occupational therapist
20 does the company take into account the individual
21 needs.

22 In addition, this employee answers
23 approximately 1200 calls in an eight-hour shift.
24 That equates to 21 seconds per call. This employee
25 gets a fifteen-minute break half-way through the

1 first four hours, a half-hour lunch and another
2 fifteen-minute break mid-way through the second four
3 hours. Outside of this schedule, they only get
4 eight minutes of unaccounted for time in their
5 shift. This time is to be used for health breaks or
6 getting a drink of water.

7 Out of an office of 105 operators, well
8 over 60 percent of them have some sort of
9 musculoskeletal problems. Some of these people have
10 filed L&I claims and, because of this, have received
11 special attention by the company. Some of the
12 special attention includes modifying their work
13 station, and this work station becomes their
14 position. However, some are not able to return to
15 their jobs and they are dealt with through
16 contractual language. We call it constructive
17 discharge. Fearful of retribution, most do not even
18 file claims because they are afraid that if too many
19 claims are filed, the company will close the office.

20 If there was a rule in place that allowed
21 for breaks away from the computer, perhaps this
22 would help. However, I believe the root of the
23 problem is that we as human beings are not
24 physically designed to withstand this rigorous abuse
25 of our bodies. Rules must be implemented because of

1 repetitive nature of this type of work is always
2 going to be there, but management is not always
3 willing to do anything about it.

4 This skyrocketing in the last ten years of
5 claims should make it obvious that everyone -- to
6 everyone that the only way we are going to decrease
7 the amount of musculoskeletal problems is to have an
8 ergonomic rule that every employer must follow.
9 Business leaders state that this implementation of
10 rules will cost them too much money, but I ask them
11 how much do all these claims cost them in terms of
12 dollars, lost productivity and, most important, the
13 health of their employees.

14 Another example I would like to use is the
15 U. S. West Communications business office that was
16 in Spokane and employed approximately 400 people.
17 These people work at old steel case desks that
18 measured about 32 inches in height. U.S. West used
19 old Data Speed 40 (phonetic) computers and
20 associated equipment. When 80 percent of the office
21 was afflicted by musculoskeletal disorders, they
22 would not fix the work stations and subsequently
23 closed the office in 1995.

24 In the year 2000 this is the same employer
25 that is requiring an operator to answer over 1200

1 directory assistance calls within an eight-hour
2 shift with little or no breaks away from the
3 computer.

4 It is very apparent to me that the best
5 answer for my people is for the implementation of
6 the ergonomic rules. I can no longer trust the
7 employers to do it themselves. Thank you.

8 MR. SPENCER: Thank you. Robin Nolan and
9 Mark Langel.

10 MS. NOLAN: My name is Robin Nolan, and I
11 work for Boeing-Spokane. I've worked for
12 Boeing-Spokane for eight and a half years. It is
13 known that in this industry, in the aerospace
14 industry, that in the nature of the work I do -- I
15 build environmental control system ducts -- has a
16 very high injury and illness rate, and I have been
17 very pro-active in the last eight years as far as
18 ergonomics. I have educated myself somewhat and I
19 have been one to identify ergonomic hazards and
20 situations in the workplace, and of course it falls
21 on apathetic ears, and I would go through this whole
22 procedure of filing what is called a SHEAR form,
23 which is a Safety, Health Environmental Action
24 Request form, in identifying these hazards which
25 again they have been ignored.

1 I am happy to see that OSHA is wanting to
2 put in standards, ergonomic standards, because for
3 one like myself and in my experience is that I have
4 had no recourse, and now as a result of that I am
5 on -- and I should say for the moment I'm employed
6 with Boeing, but I am on medical leave because of a
7 fractured rib I sustained on the job, and I have
8 been seen here, and probably, you know, I may not
9 have a job, you know, after the extent of this
10 medical leave runs out.

11 Right now currently we're into what's
12 called cellular manufacturing, and when they
13 re-engineered the factory, they did not engineer in
14 safety or ergonomics, and as they divided up heads
15 into these cells, you're just viewed as a head to do
16 the work. We need eight people to build these parts
17 in this cell, but they weren't really looking at the
18 physical attributes of the job and the physical
19 capacity of the individual.

20 At that time Boeing-Spokane was 50
21 percent -- 51 percent women. I know through my
22 experience I was working on the largest parts, a lot
23 of very large parts, handling large tools, a lot of
24 lifting. There is a lot of lifting. It isn't just
25 repetitive motion, which there is a lot of that, but

1 I'm doing tools that are not conducive to my
2 physical capacity, and when I was injured, I was
3 hand routing multi-ply Kevlar parts pulling big
4 heavy tools, and I would keep -- I even asked to be
5 removed from the cell, and that was denied.

6 I went to H.R. I went through the whole
7 echelon of management. I went to our health and
8 safety institute. There was no recourse with my
9 union. My business rep -- I am a member of the IAM,
10 and he -- unless it's contractual, they will not
11 address it, and I still felt that it fell under
12 safety even though -- I mean to me, ergonomics and
13 safety are one and the same. He told me it was
14 management's right to assign, and I said you don't
15 assign someone to jump off a cliff.

16 Nobody really knows there when they put
17 you in a position what you're -- I mean, it's more
18 than lifting. It's more than awkward positions.
19 Nobody knows what it is to pinch. Nobody knows what
20 it is to pull daily, eight hours a day, five days a
21 week, and Boeing is notorious for tons of overtime.
22 I mean it's just ongoing overtime, mandatory
23 overtime without any consideration of what it is --
24 where people's threshold is, and for me, I feel the
25 standard may not be perfect and it is going to have

1 some impact, but I do believe that it's going to --
2 it is a start, and we do need to have people taking
3 a real look, a serious look of how people -- the
4 conditions under which people are having to work
5 because we're not just workers or employees; we are
6 people, flesh and blood. We are human. Our bodies
7 can take so much. We are not pack mules. I am an
8 individual. I do know what my body can take, what
9 stresses my body can take. I believe that I have
10 the right to work in an environment, you know, that
11 takes care of me as I choose to take care of myself.

12 I do know that this injury would not have
13 occurred had we had a serious ergonomic program.
14 They do say we rotate because in the cellular
15 manufacturing we now have to rotate into all of the
16 jobs without really looking -- not really looking at
17 what are you rotating into, what muscles are you
18 still using. I would be doing a job working --
19 well, we lay up pre-planks on mandrils, and I'm in
20 this position working on it, doing a lot of heavy
21 pulling and pushing, and then I'm having to go hand
22 rout a part in a very awkward position, pulling a
23 router, a round part like this.

24 I mean, there is no -- what ergonomic
25 advantage is that? I mean, now I'm actually

1 applying more force to what was already a problem,
2 and before we went into these cells we -- the
3 problem was diluted. Now it is confined. We're now
4 in sub cells, sub lines which is condensing it even
5 more, and they feel that because we're rotating,
6 that that is the ergonomic solution, and it doesn't
7 matter what we say as the ones doing the job this is
8 not working, but another part of this is that being
9 a woman in this type of work, um, I wasn't hired
10 initially to do this, and I don't want to be in a
11 situation where they say, well, this is the way it
12 is now. We're not going to address anything. We're
13 not going to make your job easier for you so perhaps
14 you need to find another job, and so that they know,
15 because we make good money at Boeing, we're not
16 going to be that ready to leave, and you keep your
17 mouth shut like most people do, that they do not
18 report injuries, they do not identify the hazards
19 because the fear is put there that they would either
20 off-load the work or they could close that place
21 down. We hear all of this. I don't believe that to
22 be true.

23 I do believe that at some point in time
24 people who do these jobs need to be considered, and
25 I say kudos to this. I would like to expand more.

1 I will do that in writing, but we do need the
2 ergonomic standards in place just for people like
3 myself so I do have some recourse and something to
4 back me up when I do point out what is taking place
5 and what is needed to remedy that.

6 MR. SPENCER: Thank you.

7 MR. LANGEL: My name's Mark Langel, and
8 I'm the safety and environmental manager for CXT,
9 Incorporated. We make -- as I mentioned in a
10 question that I asked earlier, we make concrete
11 railroad ties. We also make concrete buildings and
12 some other various concrete railroad products.

13 CXT works really hard to eliminate
14 ergonomic hazards in the workplace. We have to
15 because, as you can imagine, we do have our fair
16 share of ergonomic hazards in the workplace. It's
17 advantageous for us to do that because we also put a
18 lot of training into our employees, and it just
19 makes more sense to do what we have to do to keep
20 the employees healthy so that we can keep our
21 trained employees and not have to be constantly
22 retraining.

23 We spend a lot of money on eliminating
24 ergonomic hazards. We have a pre-shift stretching
25 routine that our employees are required to perform

1 before they work. We've made countless equipment
2 and machinery modifications to eliminate ergonomic
3 hazards. We've done a lot of education and training
4 in the ergonomic arena, and we've also worked with
5 L&I's consultation branch and specifically with an
6 ergonomist from L&I, also.

7 We are opposed to the regulation for
8 several reasons. For one, it would be a huge
9 expense for an unproven program. The feasibility
10 issue really gets me as far as L&I being in control
11 of determining what is technically feasible, what is
12 economically feasible. I feel like we're in the
13 business of trying to make money, and L&I is more in
14 the business of trying to spend money is kind of the
15 way I look at it.

16 I'd like to see them if they could
17 intensify their consultation program because that
18 has been a wealth of information for us, and we've
19 taken advantage of that and we will continue to take
20 advantage of that as long as we can.

21 The other question would be how is
22 objective consistent enforcement assured? We feel
23 that there'd be too many varying degrees of
24 knowledge among too many compliance officers, too
25 many different interpretations of various things.

1 Question the risk factors that have been
2 come up with or that L&I has come up with. Lifting
3 75 pounds one time per day to me seems absurdly
4 light, and if you saw what we do out there at CXT,
5 you'd probably say, yeah, these guys probably do
6 think that's absurdly light.

7 On the other hand, I see that they say
8 that you're able to use your hand or knee as a
9 hammer for up to two hours. What happened to using
10 a hammer as a hammer? We don't like our employees
11 to use their body parts as a hammer, so that kind of
12 makes me question the, I guess, scientific
13 credibility of what's gone into this, and again for
14 those reasons we're opposed to this regulation.
15 Thanks.

16 MR. SPENCER: Thank you. Tom Stuart?
17 Curt Ned? Chris Clemens?

18 MR. CLEMENS: Good afternoon. My name is
19 Chris Clemens, and I am the safety director for
20 Hawkin Industries which is a local manufacturing
21 plant that employs approximately 80 people.

22 I first of all want to thank you for the
23 opportunity to be able to express my views on the
24 proposed ergonomic standard, and I will be
25 forwarding a letter, however, in the next few days

1 to the Department expressing more specific concerns
2 and ideas that I have in more detail than I was able
3 to prepare for today.

4 In 30 years of working in the work force I
5 have worked on both sides of the labor and
6 management fence. I have had work-related injuries,
7 and I can appreciate many of the concerns that have
8 been raised on both sides of this issue today. I do
9 appreciate the standard as it is written as far as
10 being a prevention-based standard and not an
11 injury-based standard as OSHA's is. I think that's
12 probably the best thing that is in this standard
13 right now.

14 I am opposed, however, as it is written to
15 this standard, and if you don't remember anything
16 else I said today, this is the reason why or one of
17 the main reasons why. It's because we have already
18 been steadfastly working towards the supposed goal
19 of this standard by assessing the hazards in our
20 workplace and making the changes to reduce or
21 eliminate those hazards which are already
22 requirements in the present accident prevention
23 standard as it is.

24 As I read many of the pages provided by
25 the Department to me to support their actions, I was

1 reminded as I read them that like any good sales
2 pitch I was being provided with a list of happy
3 customers and people that were satisfied with the
4 ergonomic system, but I didn't hear a peep from any
5 reputable people and organizations that have
6 reservations by the science behind ergonomics.
7 Sprinkled throughout the information that was
8 provided to me by the Department were words and
9 phrases like maybe, some studies, appear to play a
10 role. My favorite one was nobody knows for sure.

11 Could it be that there is not as strong a
12 consensus within the scientific community about this
13 as the Department would like us to believe? The
14 proposed standard promised to be clear and easy to
15 understand, and yet as I read it, too many key terms
16 were not defined adequately such as typical work,
17 effective alternative means and the degree feasible.
18 It is very important in my mind that some of these
19 key areas should not be left up to the complete
20 discretion of each compliance officer to define for
21 themselves.

22 Another point: How important really is
23 the education and prevention of ergonomic injuries
24 to the Department of Labor and Industries when I
25 read that they've been researching ergonomics since

1 the late '80s, they've been pressing towards a
2 standard for several years now, and when I look up
3 in their catalog of workshops for the first half of
4 this year so that I can sign up and attend one of
5 them and learn more of about what they've learned
6 about ergonomics and what they want to do about
7 ergonomics in the workplace, I discover to my
8 surprise that their workshop, the Introduction to
9 Ergonomics, is not even being offered on this side
10 of the state, not from -- the closest place is
11 Yakima from between now and the first half of the
12 year.

13 Finally, the cost estimate that the
14 Department offers for implementing this standard
15 seems to me to be way out of whack. Now, granted,
16 they admit that it's just an estimate, but since
17 they use it as selling point, that's why I'm
18 bringing it up here today because if these numbers
19 and these items are way out of line, how many other
20 points within this standard are also way out of
21 line? How many other numbers are way out of line?
22 How many other of their estimates are also way out
23 of whack?

24 Just the research alone that my company
25 will have to do in determining what we need to do to

1 comply with this standard as it is written now,
2 especially if we have to follow the appendices and
3 the equivalent of the appendices that they've placed
4 in there, by doing that thorough of a hazard
5 assessment on every single job at our plant is going
6 to easily gobble up the several years' worth of ten
7 cents per employee that they estimate it's going to
8 cost us to do the training and stuff even before
9 we've even begun any necessary modifications in
10 training that might need to take place. I mean,
11 that was one of the easiest things for me to figure
12 out just by using this proposed standard.

13 Finally -- again finally, it seems
14 reasonable to me that the larger employees who have
15 many more employees to train, many more job stations
16 and work areas to assess and possibly modify should
17 be given at least the same amount of time to comply
18 with a standard as the smaller employers, and I
19 recommend that every employer be given the six-year
20 time limit frame in order to fully implement this
21 standard, and, once again, I thank you again for
22 this opportunity to voice my opinion.

23 MR. SPENCER: Thank you. Is there anyone
24 else out there who would like to testify on the
25 proposals? Come on up.

1 MR. WELLS: I had a "maybe" in there
2 earlier and that's probably why you don't have my
3 name, and that's fine, too. The testimony that I've
4 heard on both sides of the issue today -- excuse me.
5 Claude Wells, C-l-a-u-d-e W-e-l-l-s, representing
6 Inland Foundry.

7 Testimony that you've heard on both sides
8 of the issue today has been well prepared. I would
9 guess that the written comments that you'll be
10 receiving from those people and myself will also be
11 very well done.

12 There's a couple of issues that I would
13 like to raise that haven't been talked about too
14 much, and one is the training issue and the time.
15 There's a comment there about one-hour training
16 period, for example. It doesn't take into
17 consideration the time that it takes to take those
18 people off the production line, bring them to the
19 facility where the training's going to occur,
20 provide the training and send them back on the line.
21 That can be another half-hour to an hour, so when
22 you're talking about training, you need to add that
23 time of removing those people to the facility. That
24 also affects the production time of a foundry, as it
25 does any business.

1 The other issue I wanted to discuss has to
2 do with the actual treatment of the injuries.
3 There's a lot of people going first to the
4 chiropractor, second to the family doctor and then
5 eventually to the specialist. Seems to me from my
6 experience of several years that the family doctor
7 appears to be a marble in the funnel here.

8 It's my considered opinion that Labor and
9 Industries needs to refocus the treatment of these
10 injuries to the specialist. When a person who has a
11 back injury is off work for four months before the
12 family physician finally says, well, we need to be
13 sending you to a specialist, there's something
14 drastically wrong here. When it finally comes out
15 that, yep, there's -- the discs are shot, we need to
16 have a fusion, and this person has been in this pain
17 for four months, could've had them diagnosed by a
18 specialist and had surgery in a far less time, there
19 needs to be a refocus within the system. Keep in
20 mind that it does take time to get surgery from
21 specialists because they have schedules as well, so
22 now you've got a person off six months, eight months
23 for something that very likely could've been
24 corrected in two to four, and then able to come back
25 to the job probably in a light-duty capacity which,

1 from what I can understand everybody here is willing
2 and/or does use, we use it, and then it make you a
3 better productive employer, so it seems to me that
4 preventative is great, absolutely, so is injury
5 based, they're both good systems, but when the
6 person actually gets hurt or is hurt, seems to me
7 that the focus of these particular injuries, whether
8 they be carpal tunnel or a back injury, need to be
9 treated efficiently and expeditiously. Thank you.

10 MR. SPENCER: Thank you.

11 MR. HAYFIELD: Hello. I'm Kirk Hayfield
12 representing Avista Corporation which is an electric
13 and gas utility company. I wasn't really prepared
14 to testify today. You will be getting some written
15 testimony from me, but listening to the testimony
16 that has been given here today and taking a look at
17 the regulations themselves, it does tend to lead a
18 lot of this stuff and the regulations and a lot of
19 testimony comes from manufacturing or assembly line
20 type work and does not -- and a lot of the testimony
21 does not represent and the regulations do not
22 represent the type of work that is found in the
23 construction industries.

24 The -- for instance, in the electric
25 industry we have regulations that stipulate how

1 close you can be to your work area, where you have
2 to be placed in relation to your work area, and so
3 to be in compliance with those regulations would put
4 us in violation of the proposed ergonomic
5 regulations, and now which ones do we comply with
6 and how do we do that? Those are some questions
7 that I feel these regulations do not take into
8 account.

9 Dr. Silverstein mentioned that these
10 regulations were across the board and no exceptions,
11 and I don't believe that you can do that with an
12 ergonomic rule without taking a look at specific
13 industries and try to determine what's best and what
14 are the other regulations that that industry has to
15 follow. So again that's really all I had to say,
16 and I'll let my other testimony, my written
17 testimony, I hope you'll be looking at that also.
18 Thank you.

19 MR. SPENCER: Thank you. For the court
20 reporter, could you spell your name?

21 MR. HAYFIELD: Excuse me. It's Kirk
22 Hayfield, H-a-y-f-i-e-l-d.

23 MR. BOZMAN: Hello. My name is Edie
24 Bozman. That's B-o-z-m-a-n. I'm with PG&E Gas
25 Transmission. We are a natural gas transporting

1 company. I too will follow up with written
2 testimony.

3 In general, it's interesting sitting here
4 today, and you can -- your heart goes out to those
5 employees that have suffered injuries and illnesses
6 and their lives have been changed, and you also have
7 a heart that goes out to small businesses and
8 employers who are struggling to make a profit today,
9 which brings up a point of you have employers who
10 care and you have employers who care only about
11 profit, and usually that is reflected in an
12 employer's incident and injury rate.

13 This standard doesn't take into account
14 any of the injury or illness rates associated with
15 repetitive motion, and so, again, there it is across
16 the board whether you have written programs in
17 place, whether you have a return-to-work program in
18 place, whether you consistently help your employees
19 through the workers' compensation process, whether
20 you are in contact with the physician, with the
21 physical therapist, the occupational therapist.

22 We have employees who -- well, first of
23 all, we are an employer who has had an ergonomics
24 program in place for over two years. We have a
25 return-to-work program, and consistently we have

1 employees who come to me and will say I have a
2 problem with this or I have a problem with that. We
3 try whenever we can to provide new chairs, new
4 equipment, noise reduction, vibration reduction
5 equipment whenever we can, and still we have
6 employees who go through this process again and
7 again and again, and we can't seem to correct the
8 situation, which brings up the factor that the woman
9 from Boeing brought up about physical capability.

10 At some point there has to be an end to
11 this process, and I didn't see one in the ergonomic
12 standard. At what point do you say -- maybe I
13 missed it, but at what point do you say this
14 employee -- we can't do anything else to help this
15 employee do the same job that they have done other
16 than through the workers' compensation process where
17 they become medically stationary and we put them on
18 disability. We don't like to do that. We like the
19 employee to come back to work in their regular job,
20 you know, at their regular pay, but at some point if
21 they cannot physically do the job, we have to make a
22 change, and it's not because the employer is
23 unwilling to make the change or that the job
24 structure needs to be changed, but it's because the
25 employee can no longer do the job, so I didn't see

1 that in there.

2 Also on training, I didn't see where --
3 you would think that common sense would prevail and
4 an employer would train on the hazard thing.
5 Unfortunately, if you're going to buy a canned
6 program, the only canned programs that I have seen
7 out there have been focused on office ergonomics,
8 and again being a utility, we do have positions that
9 have a typical job classification and that you can
10 reasonably expect a situation to occur. Many of
11 those are emergency situations and you hope they
12 don't happen but they could happen, and we would
13 expect an employee to respond to an emergency
14 situation for public safety.

15 The definition of public work seems very
16 broad to me, and so I would like to get a little bit
17 more information on what is typical work other than
18 regular or foreseeable part of the job. If we have
19 a mechanic who typically is required to overhaul an
20 engine as part of their job but they may only do
21 that once every quarter or once every year, that's
22 not -- should not be classified as a typical job,
23 and yet I have had one ergonomic-related injury this
24 year, lost time work based on repetitive motion, and
25 that was what the employee told me, so there needs

1 to be some clarification on that I think. Thank
2 you.

3 MR. SPENCER: Thank you. Is there anyone
4 else out there who would like to testify on the
5 proposal at this point?

6 MR. SORCINELLI: My name is Bill
7 Sorcinelli, S-o-r-c-i-n-e-l-l-i. I'm an attorney in
8 general trial practice in Spokane. I have
9 represented employers, and I presently represent an
10 employer. I have represented labor, and I presently
11 represent a number of labor issues.

12 As I sat through this thing this
13 afternoon, I've seen a split in what people consider
14 reasonable. I see a split in what people are
15 considering fact, and I think that's in part due to
16 the proposed rule being so vague in many parts.

17 Now, I've written statutes and I've tried
18 to write statutes before, and it isn't an easy
19 matter. I know that when Mr. Silverstein,
20 Dr. Silverstein and others started preparing this
21 thing, they weren't sitting down and doing it
22 without a lot of years of man hours in it, but to
23 come up with a proposal which leaves to definition
24 things like typical work, reasonable determination,
25 those are both under 5105, effective alternate means

1 under 5110, general performance approach, specific
2 performance approach, the degree of feasible, those
3 are under 5130, effectiveness as proposed under
4 5140.3, all of those lead me as an attorney real
5 willing and able to argue with somebody about what
6 they mean.

7 It's got to be considered before this rule
8 is developed and passed and put into effect what
9 effect people like me are going to have on this.
10 It's not whether I want to be nice or not nice, but
11 we've heard people sit here today and talk about
12 reasonable and common sense approaches and then make
13 a statement about wristband. That was totally
14 incorrect.

15 We heard people talk about using arms or
16 legs as a hammer and inferring that it was as a
17 hammer like when dealing with concrete or pounding a
18 nail in wood. There are carpet layers out there
19 that use their knees as a hammer and kick the kick
20 board all day long. Yeah, maybe those things are
21 workable under this rule, but the definitions aren't
22 there. There's not enough specificity there.

23 We heard somebody say skyrocketing claims.
24 Maybe that's true in a specific job that he happens
25 to be involved with, but I believe skyrocketing

1 claims have been going the other way, not
2 skyrocketing down but they are lower in the last few
3 years, and I've heard several companies out here say
4 that they have this type of program, and I applaud
5 L&I for giving them credit for that, but it doesn't
6 clear up the inconsistencies that are inherent in
7 this rule that need to be addressed first.

8 I understand that there was much talk in
9 the development of this in a pilot program and I
10 sure hope that even if this rule passes the way it's
11 set right now, that that pilot program is first out
12 of the blocks of something done because you know and
13 I know that if all of these rules are put into
14 effect and twelve years down the road, six years
15 after the last person comes on line, last company
16 comes on line this doesn't work, you'll never ever
17 do away with it. I mean it just doesn't happen.

18 Do a better job at defining the thing
19 before we get started with it. I'm not going on
20 record as against the ergonomic study and the
21 ergonomic rules, but I am against the way it's
22 written right now. Thank you.

23 MR. SPENCER: Thank you. Okay. Anybody
24 else that would like to testify on the proposal at
25 this time? If not, Mr. Williams, you want to come

1 back up and finalize your testimony for us?

2 MR. WILLIAMS: Something I left out at the
3 first. When I was first injured, I was told within
4 a week that, uh, we allow fifteen days for a back
5 injury to be well. You know, I could just barely
6 make it in there so I got fifteen days to get well,
7 and, uh, about five or six times a year I wake up,
8 say -- I've been to sleep three or four hours, and
9 I've got this pain. I can't hardly get up. I get
10 up and try to walk around and hang onto something
11 'till it goes away, and, uh, I don't know what
12 causes it or anything, but I have to put up with
13 that, and, uh, I heard somebody talking about the
14 family doctor.

15 I don't know what -- I couldn't hear all
16 that was said, but if you don't have a good family
17 doctor, well, you really got problems when you get a
18 back injury or something, and my doctor, if he
19 thinks he don't know all that's going on, he always
20 recommends a specialist that he sends me to, and
21 this one time I reopened the case, well -- so I get
22 a letter from a law firm over in Seattle or
23 somewhere that they're going to represent Kaiser.
24 Well, here I'm one little person over here. Well,
25 how am I going to go against that? So then they get

1 a local -- call the local attorney in Coeur d'Alene
2 and have him come to my doctor, and he's got some
3 kind of statement that, uh, that says there's
4 nothing wrong with me and I'll be able to work and
5 everything, so my doctor just told him to get out,
6 you know, because he wasn't going to -- he's an
7 honest doctor and he's not going to sign any false
8 statement.

9 Those -- all the doctors that -- like I
10 told you, they was programmed, and if I tried to ask
11 them a question where I could see what was wrong
12 with some other doctor I'd went to, they wouldn't --
13 that was off limits, and right away I got smart and
14 went and got the -- I waited three days, and
15 everyone I was sent to I went and got the reports
16 and I read them, all that come over to Labor and
17 Industries.

18 One thing I'd like to know is, uh, does,
19 say, like the self-insured administrator, do they
20 send something that I don't know or the employee
21 doesn't know about to Labors and Industry that we
22 have no record of or know what's going on besides
23 our medical records? Recommendations ore something?
24 Is that possible they can do that?

25 MR. WOOD: As we discussed before the

1 hearing, we are not a --

2 MR. WILLIAMS: Oh, oh.

3 MR. WOOD: -- so we don't actually know
4 the answer to your question.

5 MR. WILLIAMS: I didn't know. I've opened
6 the case three times and once after it was ten
7 years, and you allowed me to open it again and the
8 last time I wasn't successful and you turned me
9 down.

10 In 1987 I had this bad spell. It started
11 on a Friday night right here in my knee. It started
12 getting numb and then I pinched my leg and I
13 couldn't feel nothing, and there's nerves in your
14 leg or skin and I could feel every one of them in
15 there, millions of them. It felt like it was going
16 to explode, so I had Friday night, Saturday and
17 Sunday, and Monday morning I was over at my doctor,
18 and I had to -- when I'd eat I had to walk around
19 the table to eat. I couldn't sit down. I didn't
20 get no sleep for three days, so, uh, I opened it
21 again and, uh, this one time I did get some -- now,
22 all my, uh, workmans' comp was cut off back there
23 when I told you that I went to that doctor, and he
24 set on one side of the table and the other -- when
25 she sent that letter, said they was going to cut off

1 my benefits, what I didn't know it was permanent.
2 Then I got in a problem, I went to the doctor and I
3 turned in workmans' comp, so the workmans' comp said
4 they wouldn't pay it, and then the other insurance
5 didn't want to pay it because I was supposed to be
6 on workmans' comp.

7 I had all those letters going back and
8 forth, but, like I said, she put me on that other
9 insurance and I never could get no more on workmans'
10 comp, and they're the ones that should've been
11 paying it, not that other insurance, you know, and
12 so -- and a lot of people get treated this way,
13 employees out there. I don't know if you guys are
14 watching or policing it or what, but I would sure
15 like to have a hearing like this or where we could
16 come and talk to you people. Is this the first one
17 you've ever had --

18 MR. SPENCER: No.

19 MR. WILLIAMS: -- like this? Well, if you
20 have any more, I'd like to be on your mailing list,
21 please.

22 MR. SPENCER: Okay.

23 MR. WILLIAMS: Like I said, I just
24 happened to see it in the paper here two days ago so
25 I can't remember all, but anything I told you, I

1 kept all the papers, all the doctors I went to, and
2 this one time that I had to go back to work my
3 doctor had me off, and the slip -- I had to go back
4 without my doctor's approval, you know, but it's
5 amazing. If I would've run that crane that night I
6 told you about or if I'd have drove my car on that
7 medicine -- I went to the druggist the next morning
8 and I asked him, I said do you see anything wrong
9 with this? He said yeah. He said it's a
10 triple-dose antidepressant. Would you take
11 anti-depressant to cure a back ache and injury?
12 See, that -- it just put me out, and I was going to
13 be up there running that crane. If that crane got
14 away from me at one time --

15 MR. SPENCER: Mr. Williams, can we close
16 out the record of the hearing and then we can
17 discuss your individual case after?

18 MR. WILLIAMS: Yeah, that'd be fine.

19 MR. SPENCER: I think that would help.
20 We've got the fact that you were injured on the job.

21 MR. WILLIAMS: You got another meeting
22 anyway pretty soon.

23 MR. SPENCER: Yes, we do.

24 MR. WILLIAMS: Yeah, let's do.

25 MR. SPENCER: Is there anyone else that

1 would like to testify?

2 MR. WILLIAMS: I'd like to thank you for
3 the opportunity.

4 MR. SPENCER: Okay. Thank you,
5 Mr. Williams. Again, the deadline for sending in
6 written comments is February 14th, 2000. I want to
7 thank all of you that came and who've provided
8 testimony. This hearing is adjourned at 4:35 p.m.

9 (Whereupon, the hearing was concluded
10 at 4:35 p.m.)

1 REPORTER'S CERTIFICATE

2

3 STATE OF WASHINGTON)

4) SS.

5 COUNTY OF SPOKANE)

6

7 I, JULIE K. FOLAND, a Notary Public in and for
8 the State of Washington, residing at Greenacres,
9 County of Spokane, State of Washington, and a Court
10 Reporter, do hereby certify:

11 That the foregoing proceedings were taken by
12 me in stenograph and thereafter reduced to
13 typewriting by me and the foregoing 102 pages
14 contain a full, true, and correct record of the
15 proceedings had, to the best of my ability;

16 That I am not a relative or employee or
17 attorney or counsel of any of the parties, nor am I
18 a relative or employee of such attorney or counsel,
19 nor am I financially interested in the action, nor
20 am I a relative of any person interested in said
21 action.

22

23

24

25

1 IN WITNESS WHEREOF, I have hereunto set my
2 hand and seal this 14th day of January, 2000.

3

4

5

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7

8

9 _____
JULIE K. FOLAND, C.S.R.

10 Notary Public

11 422 W. Riverside Avenue

12 Suite 829

13 Spokane, Washington

14

15

16 My Commission Expires October 20, 2000.